

DRAFT CITY OF NORMANDY PARK PROPOSED MODIFICATION TO SHORELINE MASTER PROGRAM CODE

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CHAPTER [16.04](#) INTRODUCTION

16.04.010 Purpose and responsibility.

(1) The Shoreline Management Act of 1971 ~~was adopted in 1972 (RCW 90.58), is intended to control and coordinate shoreline growth and development by encouraging land uses which enhance and conserve shorelines rather than detract from them.~~ It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

(2) Primary responsibility for shoreline regulation and planning is given to local governments with the Department of Ecology acting in a review and watchdog capacity. Where a local shoreline is part of a designated "shoreline of statewide significance," as in the case of areas seaward of extreme low tide in

30 Normandy Park, local governments are required to give priority to statewide objectives and goals
31 enumerated in RCW 90.58.020 for that portion of the shoreline so designated. ~~These goals are as follows:~~
32 The department, in adopting guidelines for shorelines of statewide significance, and the local government, in
33 developing master programs for shorelines of statewide significance, shall give priority to uses in the
34 following order of preference which:

- 35 (a) ~~Preserve~~ Recognize and protect the statewide interest over local interests;
- 36 (b) Preservation of the natural character of the shoreline;
- 37 (c) Result in ~~Long-term~~ over short-term benefit;
- 38 (d) ~~Protection of the~~ resources and ecology of the shoreline;
- 39 (e) ~~Increased public access to publicly owned areas~~ of the shorelines; ~~and~~
- 40 (f) ~~Increased recreational opportunities for the public;~~ and
- 41 (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

42 Shoreline master programs (SMPs) serve as standards for implementation of state policy set forth in Chapter
43 90.58 RCW for regulation of shoreline uses. The master programs articulate local policies and use
44 regulations governing the physical development of land and water resources affecting shorelands. These
45 regulations are in addition to other ordinances, rules and regulations of the city. (Ord. ~~539 § 2, 1994~~).

46 **16.04.020 Area of jurisdiction.**

47 (1) The shoreline area covered by the Normandy Park SMP is approximately three miles along Puget Sound,
48 which is a shoreline of statewide significance (see Figure 1 of the ordinance codified in this title, on file in the
49 office of the city clerk). The entire shoreline area is designated under ~~three~~ five environments: rural ~~shoreline~~
50 residential environment, urban conservancy, beach community, bluff conservancy, and aquatic. ~~# The~~
51 shoreline extends from the Des Moines/Normandy Park city limits on the south to approximately ~~SW 174th~~
52 SW 176th Street on the north at the Burien/Normandy Park border. The eastern (shoreward) boundary is 200
53 feet landward of the ordinary high water mark. The western (seaward) boundary is the minus 100- foot
54 underwater contour (generally, 400 feet seaward of the ordinary high water mark).

55 (2) In accordance with the 1972 Shoreline Management Act as amended in 2006, that portion of the
56 Normandy Park shoreline area between the extreme low water mark and the minus 100-foot contour (which
57 is permanently under water) is a publicly owned area of statewide significance where statewide shoreline
58 interests take precedence over local shoreline interests. Extensive tidelands are exposed at low tide all along
59 the Normandy Park shoreline, which are primarily held by private landowners. Marine View Park is city-
60 owned and provides the only public access to those publicly owned shorelands which by definition remain
61 under water. Private recreational opportunities also exist for property owners living within tract 611750TRCT
62 (referred to as Lot A) at the Normandy Park Cove. (Ord. ~~539 § 2, 1994~~).

63 (3) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline
64 jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program,
65 whether or not a permit is required.

66 **16.04.030 Compliance in Normandy Park.**

67 (1) Since 1974 the Normandy Park shoreline area has been controlled by the 1973 Normandy Park shoreline
68 master program. The area extending from SW 208th Street to the city of Des Moines has been regulated by
69 the King County Shoreline Master Program of 1977. The overall goal of the SMP is to control and regulate
70 future development as it affects the shoreline area, ensuring that the private sector's right to use does not
71 infringe upon the public's right to enjoy and use the shoreline of Puget Sound without having to trespass on
72 private uplands or tidelands. In recognition of the limitations of the natural environment, shoreline
73 development activities and uses are to be regulated in a manner that assures shoreline uses with minimal
74 adverse environmental effects and that preserves unique natural resources and shoreline features having
75 historic, cultural, scientific, and educational value.

76 (2) The Shoreline Management Act sets forth three primary tasks to be fulfilled by local governments:

77 (a) Administration of a shoreline permit system for proposed substantial development on wetlands of
78 designated water bodies.

79 (b) Compilation of a comprehensive inventory which includes a survey of natural characteristics, present land
80 uses, and patterns of property ownership.

81 (c) Development of a master program to provide an objective guide for regulating the use of shorelines.

82 (3) The Normandy Park shoreline master program (SMP) refers to the city's comprehensive plan, zoning
83 code and other development plans and ordinances for which this SMP has relevance. SMP use regulations
84 are, however, a legally separate and stand-alone set of regulations enabled by the Shoreline Management
85 Act of 1971 or as amended hereafter (Chapter 90.58 RCW).

86 (4) Development within the shoreline area must conform to the city's general requirements and the SMP. In
87 case of conflict, the stricter requirement applies.

88 (5) Under the SMP, a permit must be obtained from the city for any proposed substantial development within
89 Normandy Park shoreline.

90 (6) "Substantial development," according to the Act, means any development where the total cost or fair
91 market value exceeds ~~\$5,000~~\$6,400, or the current dollar threshold determined by the state as described in
92 WAC 173-27-040(2)(a), whichever is greater, or any development that would interfere with the normal public
93 use of the water or shorelines.

94 ~~(7) The following, as detailed in WAC 173-27-040, as now exists or as amended hereafter, are general~~
95 ~~exceptions to the requirement that a permit be obtained:~~

- 96 ~~(a) Normal repair or maintenance of existing structures, or developments, including damage by accident, fire~~
97 ~~or elements;~~
- 98 ~~(b) Construction of a normal protective bulkhead common to single-family residences;~~
- 99 ~~(c) Emergency construction necessary to protect property from damage by the elements;~~
- 100 ~~(d) Construction of and practices normal or necessary for farming, irrigation, and ranching activities, including~~
101 ~~agricultural service roads and utilities on shorelands, construction of barns or similar agricultural buildings as~~
102 ~~further defined by WAC WAC 173-27-040 (2) (e) (however, purely agricultural buildings are not permitted~~
103 ~~under the zoning code);~~
- 104 ~~(e) Construction or modification of navigational aids;~~
- 105 ~~(f) Single-family dwellings for use by the owner or his family, and not to exceed a height of 35 feet above the~~
106 ~~average grade of the property (zoning requirements are more restrictive);~~
- 107 ~~(g) Construction of a dock, including a community dock, designed for pleasure craft only, for the private~~
108 ~~noncommercial use of the owner, lessee, or contract purchaser of a single-family residence, the cost of~~
109 ~~which does not exceed \$2,500.~~
- 110 (8) However, any development which occurs within the city's shoreline area, as shown on Figure 1 of the
111 ordinance codified in this title and as defined by the Act, whether it requires a permit or not, must be
112 consistent with the intent of the Act. ~~(Ord. 710 § 1, 2003; Ord. 539 § 2, 1994).~~
- 113 **16.04.040 Citizen involvement.**
- 114 (1) With assistance from local residents, the current master program was developed between ~~1987 and 1990~~
115 2009 and 2013 as an update of the previous SMP in order to incorporate shorelines annexed by the city
116 since 1973 and to reflect recent changes in state requirements and community preferences. The program
117 presents a description of natural processes, an enumeration of objectives and policies for shoreline
118 development, designation of shoreline environment(s), use regulations, and provisions for variances,
119 conditional uses, unclassified uses, and updating the SMP.
- 120 (2) During a three-year period, two a citizen committees, the Technical Advisory Committee and a
121 subcommittee of the city council reviewed and accepted citizen input to this Normandy Park shoreline master
122 program. Citizen input was solicited and received from local newspaper articles, public meetings, phone calls
123 and discussions with residents by the citizen advisory committee, planning commission, and city council
124 meeting discussions. Based on this participation, it is felt that this resulting SMP represents the wishes of the
125 citizens of Normandy Park within the constraints of existing federal, state, and city laws and regulations.
126 (Ord. ~~539~~ § 2, 1994).
- 127 **16.04.045 References to plans, regulations or information sources**

128 (1) The Normandy Park Critical Areas Ordinance, NPMC 18.36 (Ord. 825 § 3 (Exh. A), 2009) is hereby
129 adopted in whole as a part of this Program, except the following sections shall not apply within shoreline
130 jurisdiction:

131 18.36.110 Single-family residence administrative exception;

132 18.36.120 Reasonable use exception; and

133 18.36.220 Subdivisions, short subdivisions, planned unit developments and binding site plans.

134 These revisions to the Critical Areas Code apply and supersede the NPMC 18.36:

135 18.36.310(1) Identification of wetlands and delineation of their boundaries pursuant to this Chapter shall be
136 done in accordance with the approved federal wetland delineation manual and applicable regional
137 supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby
138 designated critical areas and are subject to the provisions of this Chapter and consistent with WAC 173-22-
139 035.

140 18.36.330(3) Buffers on Category IV wetlands will be 40 feet.

141 18.36.330(3)(f) & (g) Buffer width reductions will be allowed to 25 percent of the standard buffer width.

142 18.36.330(2)(a) Category III & IV wetlands have no minimum size and no wetlands are exempt from
143 development regulations and this SMP.

144 (2) The following sections of the Normandy Park Construction in Flood Hazard Areas, NPMC 9.02 (Ord. 825
145 § 3 (Exh. A), 2009) are hereby adopted in whole as a part of this Program: Flood hazard code 9.02.170
146 (Floodways) and 9.02.180 (Wetlands Management).

147 (3) The following sections of the Flood Hazard Reduction WAC 172-36-221(3)(c) are adopted into this
148 Program:

149 (a) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be
150 demonstrated by a scientific and engineering analysis that they are necessary to protect existing
151 development, that nonstructural measures are not feasible, that impacts on ecological functions and priority
152 species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate
153 vegetation conservation actions are undertaken consistent with WAC 173-26-221(5).

154 (b) Place new structural flood hazard reduction measures landward of the associated wetlands, and
155 designated vegetation conservation areas, except for actions that increase ecological functions, such as
156 wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it
157 is determined that no other alternative to reduce flood hazard to existing development is feasible. The need
158 for, and analysis of feasible alternatives to, structural improvements shall be documented through a
159 geotechnical analysis.

160 All references to the Critical Area Ordinance NPMC 18.36 (CAO) are for this specific version. Where conflict
161 between this Shoreline Master Program occurs with other regulations, the more restrictive regulation applies.

162 **16.04.050 Master program goals.**

163 The city of Normandy Park, by establishing its master program, intends to control and regulate future
164 development as it affects the shoreline area, ensuring that the private sector's right to use does not infringe
165 upon the public's right to enjoy and use the shorelines of Puget Sound without having to trespass on private
166 uplands or tidelands. Shoreline development, in recognition of the limitations of the natural environment, will
167 be regulated to assure that shoreline uses preserve the quality of the environment for the benefit of existing
168 and future generations and the public interest. (Ord. ~~539 § 2, 1991~~).

169 **16.04.060 Master program organization.**

170 The shoreline master program is documented in Chapter 16.08 NPMC through Appendix B and contains:
171 Definitions (16.08), Shoreline Environmental Designation (16.12), Master Program Policy Elements (16.16),
172 Use Regulations (16.20), User's Guide to Program Administration (16.24), and Appendix A: Inventory of
173 Natural and Manmade Conditions Map of Shoreline Designations (Figure 1); and Appendix B: Shoreline
174 Inventory and Characterization (Appendix). (Ord. ~~539 § 2, 1991~~ New ordinance _____).

175 **CHAPTER 16.08 DEFINITIONS**

176 **16.08.010 Generally.** As used in this title, unless the context requires otherwise, the definitions and concepts
177 set out in this chapter will apply. (Ord. ~~539 § 2, 1991~~).

178 **16.08.030 Average grade level.**

179 "Average grade level" means the average of the natural or existing topography of the portion of the lot,
180 parcel, or tract of real property that will be directly under the proposed building or structure; provided, in the
181 case of structures to be built over water, average grade level shall be the elevations of ordinary high water.
182 Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior
183 walls of the proposed building or structure. (Ord. ~~539 § 2, 1991~~).

184 **16.08.040 Bank.**

185 "Bank" means a steep rise or slope in the land at the edge of a body of water or watercourse. (Ord. 539 § 2,
186 1991).

187 **16.08.050 Beach feeding.**

188 "Beach feeding" means the artificial nourishment/replenishing of a beach by delivery of materials dredged or
189 excavated elsewhere. (Ord. ~~539 § 2, 1991~~).

190 **16.08.060 Bluff.**

191 “Bluff” means a high, steep, board-faced bank or cliff. (Ord. ~~539 § 2, 1994~~).

192 **16.08.070 Boathouse.**

193 “Boathouse” means an accessory building which provides shelter and enclosure for a boat only and is
194 erected on a pier or wharf or over a dock or docking slip or is a floating structure located on the same zoning
195 lot for which the primary use has been established. (Ord. ~~539 § 2, 1994~~).

196 **16.08.080 Breakwater.**

197 “Breakwater” means protective structures usually built offshore to protect harbor areas, moorages,
198 navigation, beaches and bluffs from wave action. Breakwaters may be fixed (e.g., rubble mound or rigid
199 wall), open-pile, or floating. (Ord. ~~539 § 2, 1994~~).

200 **16.08.090 Carrying capacity.**

201 “Carrying capacity” means the ability of a natural or manmade system to absorb population growth or
202 physical development without any significant degradation or breakdown. (Ord. ~~539 § 2, 1994~~).

203 **16.08.100 City.**

204 “City” means the city of Normandy Park. (Ord. ~~539 § 2, 1994~~).

205 **16.08.110 Community dock.**

206 “Community dock” means structures which abut the shoreline and are used as landing or moorage places for
207 watercraft and which serve up to 10 lots or parcels. Docks serving more than 10 lots are considered marinas.
208 (Ord. ~~539 § 2, 1994~~).

209 **16.08.120 Conditional use.**

210 “Conditional use” means a use, development, or substantial development which is classified as a conditional
211 use or is not classified within the master program. (Ord. ~~539 § 2, 1994~~).

212 **16.08.125 Critical saltwater habitat.**

213 Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish,
214 such as herring, smelt and sandlance; mudflats, intertidal habitats with vascular plants, and areas with which
215 priority species have a primary association. Critical saltwater habitats require a higher level of protection due
216 to the important ecological functions they provide. Ecological functions of marine shorelands can affect the
217 viability of critical saltwater habitats. (WAC 173-26-221(2)(iii)(A)).

218 **16.08.130 Department.**

219 “Department” means Washington State Department of Ecology (DOE). (Ord. ~~539 § 2, 1994~~).

220 **16.08.140 Development.**

221 “Development” means a use, consisting of the construction or exterior alteration of structures, dredging,
222 drilling, dumping, filling, removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of
223 obstructions; or any project of a permanent or temporary nature which interferes with the normal public use
224 of the surface of the waters overlying lands subject to the Shoreline Management Act at any state of water
225 level. (Ord. ~~539 § 2, 1994~~).

226 **16.08.150 Dredging.**

227 “Dredging” means the removal of earth from the bottom of a stream, bay, or other water body for the
228 purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill. (Ord. ~~539 §~~
229 ~~2, 1994~~).

230 **16.08.160 E.I.S.**

231 “E.I.S.” means environmental impact statement as provided in Chapter 43.21C RCW. (Ord. ~~539 § 2, 1994~~).

232 **16.08.180 Fair market value.**

233 “Fair market value” means the expected price at which the development can be sold to a willing buyer. For
234 developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair
235 market value is the expected cost of hiring a contractor to perform the operation or where no such value can
236 be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of
237 the permitted project. (Ord. ~~539 § 2, 1994~~).

238 **16.08.180 Feeder bluff.**

239 “Feeder bluff” means a coastal bluff that, as a result of its natural erosion, delivers sand and gravel to the
240 beach that is subsequently transported by waves and currents along the shoreline to maintain beaches and
241 accretion shoreforms elsewhere within the local drift cell.
242

243 **16.08.190 Groins.**

244 “Groins” means wall-like structures built seaward from the shore to build or preserve an accretion beach by
245 trapping littoral sand drift on the updrift side. Generally narrow and of varying lengths, groins may be built
246 along the shore. (Ord. ~~539 § 2, 1994~~).

247 **16.08.200 Height.**

248 “Height” means the distance measured from average grade level to the highest point of a structure; provided,
249 that appurtenances such as television antennas and chimneys shall not be used in calculating height, except
250 where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. (Ord.
251 ~~539 § 2, 1994~~).

252 **16.08.210 Jetties.**

253 “Jetties” means structures generally built singly or in pairs perpendicular to the shore at harbor entrances or
254 river mouths to prevent the shoaling or accretion of littoral sand drift. Jetties also protect channels and inlets
255 from storm waves and cross-currents. (Ord. ~~539 § 2, 1994~~).

256 **16.08.220 Marina.**

257 “Marina” means a water-dependent facility that provides wet and/or dry moorage for over 10 boats, and/or
258 includes boat launching facilities and supplies and services for small commercial and/or pleasure crafts.
259 (Ord. ~~539 § 2, 1994~~).

260 **16.08.230 Master program.**

261 “Master program” means the comprehensive use plan for the city of Normandy Park, and the use
262 regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of
263 desired goals and standards developed in accordance with the policies of RCW 90.58.020. (Ord. ~~539 § 2,~~
264 ~~1994~~).

265 **16.08.240 Natural or existing topography.**

266 “Natural or existing topography” means the topography of the lot, parcel, or tract of real property immediately
267 prior to any site preparation, grading, excavation or filling. (Ord. ~~539 § 2, 1994~~).

268 **16.08.250 Nonconforming use or development.**

269 “Nonconforming use or development” means a shoreline use or ~~structure development~~ which was lawfully
270 constructed or established prior to the effective date of the Act or the applicable master program, or
271 amendments thereto, but which does not conform to present regulations or standards of the program.
272 ~~policies of the Act. (Ord. 539 § 2, 1994)~~ (Ord. XX § X 2013).

273 **16.08.260 Ordinary high water mark (OHWM).**

274 “Ordinary high water mark” or “OHWM” means the mark on all tidal waters, lakes, and streams, which will be
275 found by examining the beds and banks and ascertaining where the presence and action of waters are so
276 common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct
277 from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may
278 naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local
279 government or the Department of Ecology. In any area where the ordinary high water mark cannot be found,
280 the ordinary high water mark adjoining saltwater shall be the line of mean higher high tide, and the ordinary
281 high water mark adjoining freshwater shall be the line of mean high water. (Ord. ~~539 § 2, 1994~~).

282 **16.08.270 Overlay zone.**

283 “Overlay zone” means a set of zoning requirements that are described in the zoning code, are mapped, and
284 subsequently imposed in addition to those of the underlying district. (Ord. ~~539 § 2, 1991~~).

285 **16.08.280 Pier.**

286 “Pier” means a structure built over the water and supported by pillars or piles used as a landing place or
287 viewing or other recreational platform. (Ord. ~~539 § 2, 1991~~).

288 **16.08.290 Private tidelands.**

289 “Private tidelands” means tidelands that were sold by the state to the upland property owners. This practice
290 was terminated by the State Legislature in the early 1970s. (Ord. ~~539 § 2, 1991~~).

291 **16.08.300 Public access.**

292 “Public access” means the public’s ability to get to and use the state’s public waters, the water/land interface
293 and associated public shoreline area. (Ord. ~~539 § 2, 1991~~).

294 **16.08.310 Public access, community.**

295 “Community public access” means public access limited to the residents of a particular subdivision,
296 condominium, club or other such entity, but where the general public is excluded. (Ord. ~~539 § 2, 1991~~).

297 **16.08.320 Public access, unlimited general.**

298 “Unlimited general public access” means access available for use freely by the general public with no
299 restrictions. (Ord. ~~539 § 2, 1991~~).

300 **16.08.325 Recreational development.**

301 Shoreline recreational development includes facilities for activities such as hiking, fishing, picnicking,
302 swimming, photography and viewing. It also includes facilities for more intensive uses, such as parks. This
303 section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or by a
304 private group, association, or individual.

305 **16.08.330 Riprap.**

306 “Riprap” means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or
307 sloughing of a structure of embankment; also, the stone so used. (Ord. ~~539 § 2, 1991~~).

308 **16.08.340 RCW.**

309 “RCW” means Revised Code of Washington, state statute. (Ord. ~~539 § 2, 1991~~).

310 **16.08.350 Shoreline administrator.**

311 “Shoreline administrator” means the city manager or his/her designee. (Ord. ~~539 § 2, 1994~~).

312 **16.08.360 Shoreline permit.**

313 “Shoreline permit” means that required by the Shoreline Management Act for substantial development,
314 conditional use or variance on shorelines, to be issued by the city of Normandy Park and subject to review by
315 the Department of Ecology and the Attorney General. (Ord. ~~539 § 2, 1994~~).

316 **16.08.370 Shorelines.**

317 “Shorelines” means all of the water areas of the state, including reservoirs, and their associated wetlands,
318 together with the land underlying them, except:

319 (1) Shorelines of statewide significance;

320 (2) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per
321 second or less, and the wetlands associated with such upstream segments;

322 (3) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes. (Ord. ~~539~~
323 ~~§ 2, 1994~~).

324 **16.08.380 Shorelines of statewide significance.**

325 “Shorelines of statewide significance” means those areas described in WAC 173-16-030(13) or as hereafter
326 amended. (Ord. ~~539 § 2, 1994~~).

327 **16.08.390 Shorelines of the state.**

328 “Shorelines of the state” means the total of all shorelines and shorelines of statewide significance within the
329 state. (Ord. ~~539 § 2, 1994~~).

330 **16.08.395 Shoreline stabilization.**

331 “Shoreline stabilization” means structural and nonstructural methods to address erosion impacts to property
332 and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or
333 wave action. WAC 173-26-231(3)(a)(i). Definition of new stabilization measures include enlargement of
334 existing structures. WAC 173-26-231(3)(a)(iii)(C), last bullet; WAC 173-26-231(3)(a)(iii)(B)(I), 5th bullet.

335 **16.08.400 SMP.**

336 “SMP” means shoreline master program. (Ord. ~~539 § 2, 1994~~).

337 **16.08.410 Streambed.**

338 “Streambed” means the channel of a river or other watercourse and adjacent land areas that are inundated
339 with floodwater during a 100-year flood. (Ord. ~~539 § 2, 1994~~).

340 **16.08.420 Substantial development.**

341 “Substantial development” means any development where the total cost or fair market value, whichever is
342 higher, does not exceed ~~\$5,000~~ \$6,400 or the current dollar threshold determined by the state as described
343 in WAC 173-27-040(2)(a) (except for exemptions found in RCW 90.58.030(3)(e)), whichever is greater, and
344 such development does not materially interfere with the normal public use of the water or shorelines of the
345 state; (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

346 **16.08.425 Transportation facilities and parking.**

347 Transportation facilities are those structures and developments that aid in land and water surface movement
348 of people, animals, goods and services. They include streets, bridges, bikeways, trails and other related
349 facilities.

350 **16.08.430 Variance.**

351 “Variance” means a means to grant relief from the specific bulk, dimensional or performance standards set
352 forth in the master program and not a means to vary a use of a shoreline. (Ord. ~~539 § 2, 1994~~).

353 **16.08.440 WAC.**

354 “WAC” or “Washington Administrative Code” means rules and regulations imposed by various state
355 departments with legislative approval that have the force of state law. (Ord. ~~539 § 2, 1994~~).

356 **16.08.450 Water-dependent use.**

357 “Water-dependent use” means a use or portion of a use which cannot exist in any other location and is
358 dependent on the water by reason of the intrinsic nature of its operation. Examples of water-dependent uses
359 may include marinas and sewer outfalls. (Ord. ~~539 § 2, 1994~~).

360 **16.08.460 Water-enjoyment use.**

361 “Water-enjoyment use” means a recreational use such as a park, pier, or other use facilitating public access
362 as a primary character of the use; or, a use that provides for passive and active interaction of a large number
363 of people with the shoreline for leisure and enjoyment as a general character of the use and which, through
364 location, design and operation, assures the public’s ability to interact with the shoreline. In order to qualify as
365 a water-enjoyment use, the use must be open to the public and most if not all of the shoreline-oriented space
366 in the facility must be devoted to the specific aspects of the use that foster shoreline interaction. (Ord. ~~539 §~~
367 ~~2, 1994~~).

368 **16.08.470 Water-related use.**

369 “Water-related use” means a use or portion of a use which is not intrinsically dependent on a waterfront
370 location but whose operation cannot occur economically without a shoreline location. Examples of water-
371 related uses may include warehousing of goods transported by water and seafood processing plants. (Ord.
372 ~~539 § 2, 1991~~).

373 **16.08.480 Wetlands or wetland areas.**

374 “Wetlands or wetland areas” means those lands extending landward for 200 feet in all directions, as
375 measured on a horizontal plane from the ordinary high water mark; floodways; and including all 100-year
376 floodplain areas; and all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and
377 tidal waters which are subject to the provisions of the Shoreline Management Act; the same to be designated
378 as to location by the Department of Ecology. (Ord. ~~539 § 2, 1991~~).

379 **CHAPTER 16.12 SHORELINE ENVIRONMENTAL DESIGNATION**

380 **16.12.001 Shorelines of statewide significance.**

381 The State of Washington Shoreline Management Act (SMA) designates certain shoreline areas as shorelines
382 of statewide significance. These shorelines are considered important major resources from which all people
383 in the state derive benefit. The SMA states that local shoreline master programs must give preference to
384 uses which favor public and long-term interests of the people of the state. In the City of Normandy Park, only
385 the marine shorelines between the ordinary high water mark and the line of extreme low tide are designated
386 shorelines of statewide significance. The lower portions of Miller and Walker Creeks where flow is equal to or
387 exceeds 20 cubic feet per second are “shorelines of the state” and are not “shorelines of statewide
388 significance.” The following policies apply to Normandy Park’s shoreline areas:

- 389 • Recognize and protect the statewide interest over local interest.
- 390 • Preserve the natural character of the shoreline.
- 391 • Result in long-term over short-term benefit.
- 392 • Protect the resources and ecology of the shoreline.
- 393 • Increase public access to publicly owned areas of the shoreline.
- 394 • Increase recreational opportunities for the public on the shoreline.

395 **16.12.005 Shoreline environment designation map.**

396 The shoreline designation map, Figure 1, establishes the general locations of each of the shoreline
397 designations within the City of Normandy Park. This map generally illustrates the extent of shoreline
398 jurisdiction, but is only a depiction that will need to be reviewed and determined case by case based on the
399 relevant definitions in the SMA. In the event that there are any undesignated shorelines of the state, they will

400 be automatically designated Urban Conservancy under this SMP. If any part of a proposed development or
401 activity is located within this shoreline designation, the entire proposal must be reviewed for consistency with
402 the City of Normandy Park's Shoreline Master Program.

403 **16.12.010 Rural residential environment.**

404 (1) Purpose.

405 The purpose of the rural residential environment is to restrict intensive development along single-family
406 residential shorelines and to maintain open spaces and opportunities for recreational uses compatible with
407 residential uses. Protection of the natural shoreline environment and its resources is encouraged. ~~(Ord. 539~~
408 ~~§ 2, 1991).~~

409 (2) Criteria for designation.

410 Rural residential is an area of low to medium density single-family residential development and some public
411 and private recreational uses. The area is free from intensive development and does not include any
412 multifamily residential, commercial, or industrial development. Planned residential developments may be
413 allowed by the city of Normandy Park. The rural residential environment includes sensitive areas such as
414 steep slopes, eroding bluffs, stream deltas, heavily wooded areas, and flood zones.

415 (3) ~~General m~~Management policies.

416 (4a) New developments in the rural residential environment should reflect the character of the surrounding
417 area by limiting residential density, providing permanent open space, and by maintaining adequate building
418 setbacks from the water.

419 (2b) Public and private recreational facilities and uses compatible with residential uses should be
420 encouraged.

421 (3c) Water-dependent, water-related, or water-enjoyment recreational activities should be encouraged on
422 publicly owned property.

423 (4d) Public access opportunities should be encouraged to publicly owned shorelines without having to
424 trespass on private upland or tideland properties.

425 (5e) Intensive development such as multifamily residential, commercial, ports, and industrial development
426 should not be permitted.

427 (6f) Low density residential development should be allowed when supporting community facilities such as
428 public sewer, water and power are available.

429 (7g) Residential developments and recreational uses should be located, sited, designed, and maintained to
430 protect and enhance the shoreline environment.

431 (8 h) Construction of structural shoreline stabilization should be permitted for bank protection; provided it is
432 designed so that it will not result in significant damage to neighboring properties. New developments should
433 be designed to preclude the need for such stabilization and should be compatible with existing shoreline
434 characteristics and limitations. (Ord. ~~539 § 2, 1991~~).

435 **16.12.015 Aquatic.**

436 (1) Purpose.

437 The purpose of the “Aquatic” shoreline environment designation is to protect, restore, and manage the
438 unique characteristics and resources of shoreline areas waterward of the ordinary high water mark including
439 the shoreline-designated portions of Miller and Walker Creeks, Puget Sound, and adjacent wetlands. This is
440 accomplished by managing water dependent uses and modifications to:

- 441 ▪ Preserve/restore ecological functions of the nearshore area;
- 442 ▪ Preserve critical saltwater and freshwater habitat;
- 443 ▪ Provide public access and recreation opportunities; and
- 444 ▪ Assure compatibility between shoreland and aquatic uses.

445 (2) Criteria for designation.

446 An “Aquatic” shoreline environment designation is assigned to lands waterward of the ordinary high water
447 mark for both saltwater and freshwater bodies of water, including any submerged or intertidal areas. For the
448 City of Normandy Park, this designation applies to the portions of Miller and Walker Creeks and adjacent
449 wetlands that meet the criteria for a Shoreline of the State (RCW 90.58.030(2)(f)) and marine areas (Puget
450 Sound) waterward of the ordinary high water mark to the 100-foot underwater countour (generally, 400 feet
451 seaward of the ordinary high water mark). The Aquatic shoreline environment designation includes the water
452 surface together with the underlying lands and the water column.

453 (3) Management policies.

454 (a) Shoreline uses and modifications should be compatible with the adjoining shoreline environment and
455 designed and managed to prevent degradation of water quality and alteration of natural hydrographic
456 conditions.

457 (b) New or reconstructed overwater structures should be allowed only for water-dependent uses, public
458 access, or ecological restoration if it can be clearly shown that the cumulative environmental impacts of such
459 structures will not cause significant adverse impacts to protected species.

460 (c) The size of new or reconstructed overwater structures should be limited to the minimum necessary to
461 support the structure’s intended use and should support multiple uses.

462 (d) All developments and uses on navigable waters or their beds should be located and designed to minimize
463 interference with surface navigation and moorage.

464 (e) All developments and uses should consider impacts to public views and access and allow for the safe,
465 unobstructed passage of fish and wildlife, particularly those species dependent on migration.

466 (f) Restoration opportunities associated with project impacts should be encouraged in the aquatic
467 environment.

468 (g) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should
469 not be allowed except where necessary to achieve the objectives of RCW 90.58.020 (Shoreline Management
470 Act), and then only when their impacts are mitigated according to the sequence described in WAC 173-26-
471 201(2)(e) (Environmental Impact Mitigation) necessary to achieve no net loss of ecological functions.

472 (h) Shoreline uses and modifications should be designed and managed to prevent degradation of water
473 quality and alteration of natural hydrographic conditions.

474 **16.12.020 Urban conservancy.**

475 (1) Purpose.

476 The purpose of the “Urban Conservancy” shoreline environment designation is to protect and restore
477 ecological functions of open space, floodplains, and other sensitive lands where they exist in urban and
478 developed settings, while allowing a variety of compatible uses. This designation focuses on providing
479 access for the enjoyment of marine and lake shorelines by allowing the development of recreational facilities.

480 (2) Criteria for designation.

481 An “Urban Conservancy” environment designation is assigned to areas within shoreline jurisdiction that are
482 suitable for public (including community access and unlimited general access) or private access, water-
483 enjoyment recreational uses, and active recreation developments. These are areas that are developed at a
484 low density including outdoor recreation. The Urban Conservancy environment is designated for Marine View
485 Park and a portion of the mouth of Miller and Walker Creeks (see Figure 1).

486 (3) Management policies.

487 (a) Uses that preserve or restore the natural character of the shoreline area or promote preservation of open
488 space and critical areas should be the primary allowed uses.

489 (b) Public and private access and public and private recreation objectives should be implemented if feasible
490 and wherever any significant ecological impacts can be mitigated.

491 (c) Water-oriented uses should be given priority over non-water-oriented uses, with water-dependent uses
492 given the highest priority.

- 493 (d) New development should be designed and located to preclude the need for shoreline armoring,
494 vegetation removal, flood control, and other shoreline modifications.
- 495 (e) Standards should be established for shoreline stabilization measures, vegetation conservation, water
496 quality, and shoreline modifications. These standards shall ensure that new development or redevelopment
497 does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

498

499 **16.12.025 Bluff conservancy.**

500 (1) Purpose.

501 The purpose of the “bluff conservancy” environment is to protect those shoreline areas that are steep feeder
502 bluffs that are relatively free of human influence or that include intact or minimally degraded shoreline
503 functions sensitive of human use. This designation is meant to be an overlay over rural residential
504 designation where single family residences are on top of feeder bluffs. These systems require that only very
505 low-intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes.
506 **Restoration of the shoreline and shoreline functions, where feasible and permitted under the**
507 **Normandy Park Code, is encouraged in this environment. ~~Where safety to the homeowners above the~~**
508 **~~bluff may be threatened, shoreline stabilization structures would be allowed above the ordinary high~~**
509 **~~water mark in these areas. or In any event, and notwithstanding anything to the contrary in the SMP~~**
510 **~~or Normandy Park Code, existing shoreline stabilization structures are allowed to remain and be~~**
511 **~~maintained, subject to approval by the City. Soft armoring should be used for shoreline stabilization~~**
512 **~~structures and restoration of degraded shorelines, where feasible as approved by the City. Where~~**
513 **~~feasible, restoration of degraded shorelines within this environment should be implemented.~~**

514 (2) Criteria for designation.

515 (a) “Bluff conservancy” environment designation should be assigned to shoreline areas if any of the following
516 characteristics apply:

517 (i) The shoreline is undeveloped and contains feeder bluff habitat and therefore is currently performing an
518 important, irreplaceable function or ecosystem-wide process that would be impaired by human activity.

519 (ii) The shoreline is unable to support new development or uses without significant adverse impacts to
520 ecological functions or risk to human safety.

521 (iii) Uses in the bluff conservancy include low impact recreation and natural resource-based, low-intensity
522 activities.

523 Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries,
524 unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats.

525 Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their
526 natural shoreline functions, as evidenced by the shoreline configuration and the presence of native
527 vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline
528 modifications, structures, and intensive human uses. In forested areas, they generally include native
529 vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris
530 available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological
531 conditions ranging from near-natural conditions to totally degraded and contaminated sites, this term is
532 intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and
533 terrestrial environments which could be lost or significantly reduced by human development or have risk to
534 human safety if they were developed. Whether or not a shoreline is ecologically intact is determined on a
535 case-by-case basis.

536 The term “ecologically intact shorelines” applies to all shoreline areas meeting the above criteria ranging
537 from larger reaches that may include multiple properties to small areas located within a single property.

538 (3) Management policies.

539 (a) Any use that would degrade the ecological functions or natural character of the shoreline area should not
540 be allowed.

541 (b) The following new uses should not be allowed in the “bluff conservancy” environment:

- 542 ▪ Residential development.
- 543 ▪ Commercial uses.
- 544 ▪ Nonwater-oriented recreation.
- 545 ▪ Industrial uses.
- 546 ▪ Nonwater-oriented recreation.
- 547 ▪ Roads, utility corridors, and parking areas that can be located outside of “bluff conservancy”
548 designated shorelines.
- 549 ▪ All other uses prohibited by this SMP.

550 (c) No development shall be allowed that requires shoreline stabilization structures, except for lots where
551 existing civil settlements by and between the City require them.

552 (d). **Notwithstanding anything to the contrary in the SMP or Normandy Park Code, existing shoreline**
553 **stabilization structures may be allowed to remain and be maintained, subject to approval by the City.**
554 ~~Repair and maintenance Shoreline stabilization measures are allowed as necessary for the protection~~
555 ~~and safety of residences on top of a bluff as determined through the substantial development permit~~

~~process.~~ Where existing shoreline stabilization measures are allowed to be repaired or rebuilt, soft-armoring should be used where feasible to protect ecological functions and be consistent with the purpose of this environment. ~~New or r~~Rebuilt shoreline stabilization measures shall be placed above the ordinary high water mark, where feasible.

(e) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

(f) Development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. ~~Do not allow t~~The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions **is not allowed**. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

16.12.030 Beach community.

(1) Purpose.

The purpose of the beach community environment is to recognize the unique community of single-family residential uses and to protect the safety of the residences while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded, where feasible. The beach community environment would maintain open spaces and opportunities for recreational uses compatible with the beach residential uses. Protection of the natural shoreline environment and its resources is encouraged. **Due to the potential for damage to structures in this designation and the physical constraints to repair and redevelopment, removal of structures, restoration of the natural shoreline, and change of use to conservation is encouraged.**

The following identifies the objectives for the beach community designation in order of importance:

(a) Protect the unique characteristics of these communities while minimizing the impact to critical areas and natural shoreline processes;

(b) Accommodate the functional re-use of residential structures and safety of its residences; and

(c) Encourage restoration of natural shoreline, **removal of all structures**, or placing properties in conservation where residential structures and property have been substantially damaged ~~(those damaged at greater than 75 percent of their value).~~

(2) Criteria for designation.

The beach community designation is an area largely occupied by the collection of unique single-family residences and seasonal single-family residences. Some residences are located on the beach and are prone to storm damage. The area is free from intensive development and does not include any multifamily

589 residential, commercial, or industrial development. The beach includes sensitive areas such as beaches,
590 steep slopes, eroding feeder bluffs, heavily wooded areas, and flood zones.

591 (3) Management policies.

592 (a) When substantial redevelopment or development activities occur on parcels in this environment, septic
593 systems must be abandoned and the houses must be connected to the Southwest Suburban Sewer System
594 within the City or the Midway Sewer System in Des Moines, Washington.

595 (b) Public access opportunities should be encouraged to publicly owned shorelines without having to
596 trespass on private upland or tideland properties.

597 (c) Intensive development such as multifamily residential, commercial, ports, and industrial development
598 should not be permitted. Additional residential development in this environment is not encouraged.

599 (d) Construction or reconstruction of shoreline stabilization measures should be permitted for bank protection
600 and residential safety, provided it is designed so that it will not result in significant damage to neighboring
601 properties, and would not result in net loss of ecological functions. New developments should be designed to
602 preclude the need for such stabilization and should be compatible with existing shoreline characteristics and
603 limitations. (Ord. 539 § 2, 1994).

604 (e) Substantially damaged residences (those damaged at greater than 75 percent of their value) are
605 encouraged to change use of their property to conservation instead of rebuilding with the intent of allowing
606 preservation or restoration of ecological functions.

607 (f) For redevelopment activities, the applicant must comply with code section 16.20.185 and 16.20.190 and
608 also establish a covenant per code section 16.20.190(1)(a)(xiv).

609 **CHAPTER 16.16 MASTER PROGRAM POLICY ELEMENTS**

610 **16.16.010 Generally.**

611 (1) The Shoreline Management Act of 1971 that was amended identifies seven land and water use elements
612 to be addressed in the development of area-wide shoreline goals. They include: economic development,
613 public access, circulation, recreation, shoreline use, conservation, and historical/cultural. Master programs
614 are also encouraged to include any other elements which, because of present uses or future needs, are
615 deemed appropriate to effectuate the policy of the Act. Therefore, because of the predominantly residential
616 nature of Normandy Park, a residential element has been incorporated.

617 (2) The following comprehensive set of shoreline goals provides the foundation and framework on which the
618 balance of the master program has been developed. Citizens, administration, and governmental officials of
619 the city have established the following goals and associated objectives and policies which reflect the level of
620 achievement believed to be desirable for all city shoreline uses, needs, and developments. They have also

621 established program policies commensurate with the intent and objectives of the Shoreline Management Act.
622 (Ord. 539 § 2, 1994).

623 **16.16.020 Shoreline use element.**

624 This element addresses the distribution, location, and extent:

625 (1) The use of shorelines and adjacent areas for housing, ~~commerce~~, transportation, public buildings,
626 utilities, ~~agriculture~~, education, and natural resources;

627 (2) The use of the water for aquaculture, recreation, and transportation; and

628 (3) The use of the water, shoreline, and uplands for categories of land and water uses and activities not
629 specified in this master program.

630 Goal: Preserve or develop shorelines in a manner that assures shoreline uses with minimal adverse effect on
631 the quality of the environment. Also, consider the goals, objectives, and policies within this shoreline master
632 program in all land use management actions regarding the use or development of adjacent uplands and all
633 streambeds within the city's jurisdiction where such use or development may have an adverse effect on
634 shorelines.

635 Objective: Provide for the clustering of like water-related and water-dependent shoreline uses.

636 Policy 1. Unique and fragile areas of the shoreline shall be protected from uses or activities that may have an
637 adverse effect on the land or water environment.

638 Policy 2. Nonresidential uses or activities designed for water-related and water-enjoyment uses (which are
639 not shoreline dependent) shall be encouraged to locate or relocate away from the shoreline.

640 Policy 3. Normandy Park shall consider the goals, objectives, and policies within the shoreline master
641 program in all land use management actions regarding the use or development of water areas, adjacent
642 uplands, and associated wetlands or streams, with less than 20 cubic feet per second mean annual flow
643 within its jurisdiction, where such use or development may have an adverse effect on designated shorelines.

644 Policy 4. New construction, except shoreline stabilization structures, shall have a minimum setback of ~~30~~ 115
645 feet landward from the OHWM, except for sensitive areas (e.g., eroding bluffs or shores, marshes, bogs,
646 swamps, and streams) where setbacks shall be managed from the top of the bluff or nearest wetland edge
647 per setbacks defined in NPMC 18.36.

648 Policy 5. No new construction, except a shoreline stabilization structure, which significantly reduces the flood
649 storage capacity of the streambed or increases flood hazards to upstream properties or otherwise endangers
650 public safety, shall be allowed within the limits of the 100-year floodplain, unless reasonable flood and
651 ecological protection is provided.

652 ~~**Policy 6. Piers, docks, and boathouses should be discouraged where conflicts with recreational**~~
653 ~~**boaters and other recreational water activities would be created by pier construction.**~~

654 Policy 6.7. Accessory uses exempt from the shoreline permit requirement such as existing bulkheads for
655 single-family residential development shall conform to the policies and intent of the Shoreline Management
656 Act and the policies and use regulations of this master program. (Ord. 539 § 2, 1994).

657 **16.16.030 Residential element.**

658 This is an element for the protection and enhancement of residential shoreline areas.

659 Goal: Residential development should reflect the goals and objectives of the master program.

660 Objective 1: Preserve the character of single-family residential areas.

661 Policy 1. Single-family residential areas should be protected from encroachment by commercial or
662 multifamily residential uses.

663 Objective 2: Ensure that residential construction is considerate of shoreline features and consistent with this
664 shoreline master plan.

665 Policy 1. Both formal plats and short subdivisions shall comply with the shoreline master program objectives
666 and policies.

667 Policy 2. New developments should minimize visual and physical obstruction of the water from shoreline
668 roads and upland owners.

669 Policy 3. Building permit applications for single-family residences and accessory structures shall be reviewed
670 for compliance with the shoreline master program, although a shoreline permit is not required.

671 ~~**Policy 4. Priority shall be given to the use of community piers and docks in all new major waterfront**~~
672 ~~**subdivisions or planned residential developments. In general, the cooperative use of piers and docks**~~
673 ~~**shall be encouraged. (Ord. 539 § 2, 1994).**~~

674 **16.16.040 Conservation element.**

675 This is an element for the preservation of the natural shoreline resources, considering such characteristics as
676 scenic vistas, parkways, estuarine areas for fish and wildlife protection, beaches, and other valuable natural
677 or aesthetic features.

678 Goal: Assure preservation and enhancement of unique and nonrenewable natural resources and assure
679 conservation of renewable natural resources for the benefit of existing and future generations and the public
680 interest.

681 Objective 1: Prevent further deterioration of water quality and encourage water quality improvement.

682 Policy 1. Recognize that the saltwaters of Normandy Park are important fish habitat and resting places,
683 feeding, and wintering areas for migratory fowl (particularly the near shore eelgrass beds and near fresh
684 water streams), and that the quality of this marine habitat should be protected.

685 Policy 2. Encourage the development of programs and projects that will enhance marine life.

686 Policy 3. Encourage the development and implementation of a comprehensive storm sewer system in the
687 greater Normandy Park area.

688 Policy 4. Encourage the use of appropriate natural herbicides and pesticides, and encourage the convenient
689 location of hazardous waste disposal sites outside of shoreline areas.

690 Objective 2: Development on shorelines should sustain a minimum adverse impact on the quality of the
691 environment.

692 Policy 1. Shoreline structures should be sited and designed to minimize view obstruction and should be
693 visually compatible with the shoreline character.

694 Policy 2. The city should consider the impact of any proposed shoreline development on the water quality of
695 Miller, Walker, and Normandy Creeks.

696 Objective 3: Scenic, aesthetic, and ecological qualities of natural and developed shorelines should be
697 recognized and preserved.

698 Policy 1. When appropriate, the natural flora should be preserved, restored, or enhanced.

699 Policy 2. Along the shorelines, the natural topography should not be substantially altered. (Ord. ~~539 § 2,~~
700 ~~1994~~).

701 **16.16.050 Public access element.**

702 This is an element making provision for public access to publicly owned shorelines and assessing the need
703 for providing public access to shoreline areas.

704 Goals: Increase public access to shoreline areas; provided, that private rights, public safety, municipal
705 liability, and the natural shoreline character are not adversely affected.

706 Objective 1: Public access development should respect and protect the enjoyment of private rights in
707 shoreline property.

708 Policy 1. Shoreline access areas should be planned to include ancillary facilities such as parking and
709 sanitation when appropriate.

710 Policy 2. Shoreline access and ancillary facilities should be designed and developed to provide adequate
711 protection for adjacent private properties.

712 Objective 2: Public access should be maintained and regulated.

713 Policy 1. Public access should be policed and improved consistent with intensity of use.

714 Policy 2. The provision to restrict access as to nature, time, number of people, and area may be appropriate
715 for public pedestrian easements and other public access areas where there are spawning grounds, fragile
716 aquatic life habitats, or potential hazard for pedestrian safety.

717 Policy 3. Facilities in public shoreline access area should be properly maintained and operated.

718 Objective 3: Access design should provide for the public health, safety, and enjoyment and minimize liability
719 risks.

720 Policy 1. Appropriate signs should be used to designate developed, publicly owned shorelines.

721 Policy 2. Public access to and along the water's edge should be available within publicly owned shorelines
722 that are tolerant of human activity where municipal liability is an acceptable risk.

723 Objective 4: Priority for access acquisition should consider resource desirability, availability and proximity of
724 population.

725 Policy 1. A shoreline element should be encouraged in the city's park and recreation plan so that future
726 shoreline access is acquired and developed as part of an overall master plan.

727 Policy 2. The city should make every effort to preserve creek deltas within the boundaries of Normandy Park
728 for future generations' recreation needs and in recognition of their environmental quality values and
729 associated benefits.

730 Objective 5: Access to public shorelines of the city should be available to all people when possible.

731 Policy 1. Viewpoints, lookouts, and vistas of shorelines and wetlands should be publicly accessible where
732 possible and when private properties are adequately protected.

733 Policy 2. New developments should minimize visual and physical obstruction of the water from shoreline
734 roads and upland owners.

735 Objective 6: General policies.

736 Policy 1. Where appropriate, utility and transportation rights-of-way on the shoreline should be made
737 available for public access and use.

738 Policy 2. Publicly owned street ends, which abut the shoreline, should be retained.

739 Policy 3. Where appropriate, recreational facilities and other public access points should be connected by
740 trails, bicycle pathways and other access links.

741 Policy 4. Public pedestrian easements and access points should be of a nature and scale that will be
742 compatible with the abutting and adjacent land use, as well as natural features, including aquatic life.

743 Policy 5. Access development should respect and protect ecological and aesthetic values in the shorelines of
744 the state.

745 Policy 6. None of the above policies should be construed to take precedence over the city's obligation to
746 provide for the public safety, to maintain publicly owned properties, or to protect the assets of the city from
747 unacceptable municipal liability.

748 Policy 7. Emergency access to the shoreline should be provided through public access points and on private
749 properties that have agreements with the City to allow emergency access.

750 **16.16.060 Recreation element.**

751 This is an element for the preservation and expansion of recreational opportunities through programs of
752 acquisition/development, and various means of less-than-fee acquisition.

753 Goal: Provide water-dependent and shoreline-oriented recreation opportunities for city residents.

754 Objective: Maximize public recreational, historical, and educational opportunities in the shoreline area, to the
755 extent that it does not interfere with private property.

756 Policy 1. Provide recreational opportunities on publicly owned shorelines which attract all people.

757 Policy 2. Encourage the acquisition of prime recreational lands prior to their commitment to other uses.

758 Policy 3. Examine additional recreational, historical, and educational opportunities offered by Marine View
759 Park.

760 Policy 4. Effective interpretation should be provided to enhance visitor understanding of the natural resource.

761 Policy 5. Shoreline recreational use and development should enhance environmental qualities with minimal
762 adverse effect on the natural environment.

763 Policy 6. Shoreline recreational areas should be sited and designed to facilitate adequate monitoring of
764 activity and maintenance.

765 Policy 7. Bicycle path planning should take into consideration opportunities for shoreline views. (Ord. ~~539~~ §
766 ~~2~~, 1994).

767 **16.16.070 Circulation element.**

768 This is an element for assessing the location and extent of existing and proposed major thoroughfares,
769 transportation routes, terminals, and other public facilities, and correlating those facilities with the shoreline
770 use elements.

771 Goal: Circulation systems in shoreline areas should be limited to those which are water-dependent or water-
772 related, and would serve water-dependent uses.

773 Objective: Restrict motor vehicle traffic in the shoreline area.

774 Policy 1. Motorized vehicles should be prohibited on all beaches, except for residential service access and
775 existing prescriptive easement.

776 Policy 2. Nonwater-related parking facilities should be discouraged from locating in the shoreline area.

777 Policy 3. All transportation facilities in shoreline areas should be constructed and maintained to cause the
778 least possible adverse impacts on the land and water environments, should respect the natural character of
779 the shoreline, and should make every effort to preserve wildlife, aquatic life, and their habitats. (Ord. ~~539 § 2, 1994~~,
780 ~~1994~~).

781 **16.16.080 Historical/cultural element.**

782 This is an element for the protection and restoration of buildings, sites, and areas having historic, cultural,
783 educational, or scientific value.

784 Goal: Shoreline features having historic, cultural, scientific or educational value locally or regionally, should
785 be designated and then retained and protected.

786 Objective: Encourage the restoration, development, and interpretation of historical, cultural, and educational
787 sites. (Ord. ~~539 § 2, 1994~~).

788 **16.16.090 Economic development element.**

789 This is an element for the location and design of industries, transportation, port, tourist, and commercial
790 facilities, and other developments dependent on shoreline locations and/or water access.

791 Goal: No industries or transportation, port, marinas, tourist or commercial facilities should be located within
792 Normandy Park's designated shoreline environment.

793 Objective: Commercial and industrial developments should be located inland and only as provided by the
794 comprehensive plan of the city of Normandy Park. (Ord. ~~539 § 2, 1994~~).

795 **CHAPTER 16.20 USE REGULATIONS**

796 **Article I. Purpose and Intent**

797 **16.20.010 Purpose and intent.**

798 (1) Use regulations derive from the goals and policies set forth in the previous chapter and are
799 implementation tools intended to carry out the policies of this master program and the Shoreline
800 Management Act. They represent the major criteria to be used in evaluating proposed developments and
801 alterations to the shoreline environment.

802 (2) Shoreline uses and activities not specifically identified, or for which policies have not been developed,
803 shall be evaluated on a case by case basis and are required to:

804 (a) Meet the intent of the goals and objectives of this master program;

805 (b) Comply with the Shoreline Management Act of ~~1974~~ 1972;

806 (c) Be consistent with management policies and character of the rural residential shoreline
807 environment; and

808 (d) Secure a conditional use permit. (~~Ord. 539 § 2, 1991~~).

809 **16.20.015 Shoreline permit matrix.**

810 The types of permits required for new shoreline uses and modifications are provided in the permit matrix in
811 Figure 2. Shoreline Permit Matrix.

812

813 **Figure 2. Shoreline Permit Matrix**

Type of Shoreline Permit Required for New Shoreline Uses and Modifications*					
Uses/Modifications	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Commercial Agriculture (16.20.030)	X	X	X	X	X
Commercial Aquaculture (personal consumption with structures) (16.20.040)	X	X	CU	X	X
Subsistence Aquaculture with structures; restoration and research activities (16.20.040)	CU	X ^f	CU	X ^f	CU
Subsistence Aquaculture - no structures; restoration and research activities (16.20.040)	P	X ^f	P	X ^f	P
Boating Facilities					
-Commercial boating facilities (16.20.070)	X	X	X	X	X
Docks and Piers Residential (16.20.200(1) & (2))	X CU	X	X CU	X	X CU
Floats-Residential ((16.20.200(3))	CU	X	CU	X	CU
Non-commercial launching ramps, rails, and lift stations (16.20.200(4))	CU	CU	CU	X	CU
Boat Mooring Buoys (16.20.175)	N/A	N/A	P	N/A	N/A

814

Uses/Modifications	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Shoreline Stabilization Structures and Modifications					
- Breakwater, jetties, & other in-water structures except groins (16.20.170 & (16.20.120))	X	X	X	X	X
- New bulkheads not including repair and maintenance (16.20.190)	CU	X	X	X	CU
- Bulkhead repair and replacement (16.20.190)	P	X	X	X	P
Groins (16.20.200(4))	CU	X	CU	X	CU
- Upland Structures residential (retaining walls and bluff walls) ^d	P	X	X	X	P
-All other stabilization structures	CU	CU	X	CU	CU
-Development on accretion beach (16.20.140)	X	X	X	X	X
-Dredging (16.20.200(5)(a)) ^e	CU	CU	X	X	CU
-Fill (16.20.200(5)(b)) ^e	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>
Residential development over water (Floating home) (16.20.160)	X	X	X	X	X
Commercial Forest practices (16.20.050)	X	X	X	X	X
Land Clearing and Grading (16.20.220) ^g	P	X	N/A	X	P
Shoreline Vegetation Conservation (16.20.195)	P	P	N/A	P	P

Uses/Modifications	Shoreline Designations (See Chapter 16.12 for shoreline designation descriptions and Figure 1 for a map of the shoreline designations)				
	Rural Residential	Urban Conservancy	Aquatic	Bluff Conservancy	Beach Community
Industrial & Ports (16.20.090)	N/A	X	X	X	N/A
Mining (16.20.060)	X	X	X	X	X
Public park and recreation facilities ^b (16.20.250)	P	P	P	P	P
Recreation (16.20.250)	P	P	P	X ^h	P
Residential - Single family ^d (16.20.120)	P	X	N/A	X	P
Residential - Multi family (16.20.120)	X	X	N/A	X	X
Commercial Use and Development (16.20.080)	X	X	X	X	X
Sewage and Solid Waste Treatment Facilities (16.20.100) & (16.20.110)	X	X	X	X	X
Monitoring stations or devices (16.20.115)	CU	CU	CU	CU	CU
Transportation Facilities & Parking ^c (16.20.270)	P	X	X	X	P
Utilities (16.20.280 & 285)	P	P	X	X	P
Preservation of archeological resources and historic buildings (16.20.290)	P	P	P	P	P
Wireless Service Facility or communication tower ^a	X	X	X	X	X

818 **P Permitted** – Allowed when meeting the requirements for the given use. A shoreline substantial
819 development permit (SDP) or shoreline exemption may be needed. See WAC 197-26-040 for a complete list
820 of development exempt from a substantial development permit.

821 **CU Shoreline conditional use permit** (Requires a Department of Ecology Decision if locally

822 approved.) – See Chapter 16.24 for specific procedures. A SDP may also be required.
823 **X** Prohibited
824 **N/A** Not applicable
825 ^a Wireless Service Facility is a tower for cell phone service networks and communication towers are for radio,
826 cable or other communications.
827 ^b This category does not include minor repair or maintenance and picnic tables.
828 ^c This category does not include minor repair or maintenance of roads and parking areas
829 ^d Exempt from shoreline substantial development permit requirements if this is for construction of
830 only one detached unit built by an owner, lessee, or contract purchaser who will be occupying the
831 residence, in accordance with WAC 173-27-040.
832 ^e Permitted for ecological restoration projects and purposes in the bluff conservancy environment.
833 ^f Aquaculture for the purposes of research and/or restoration may be allowed under a CU in the bluff
834 conservancy and urban conservancy environments.
835 ^g All land clearing activities are subject to NPMC 16.20.195 Shoreline Vegetation Conservation.
836 ^h Low-impact passive recreation is permitted in the Bluff Conservancy designation, but structures for the
837 purposes of recreation are prohibited.
838 * Shoreline uses not listed in the matrix above are subject to a shoreline conditional use permit.
839

Article II. General Regulations

Regarding Prohibited and Partially Prohibited Uses

16.20.020 Generally.

Based upon the shoreline goals and policies in this program, the following regulations are established for all shoreline use and use elements. (Ord. 539 § 2, 1994).

16.20.030 Agriculture.

For the purposes of the Normandy Park master program, agricultural practices refer to all methods of livestock, crop, vegetation and soil management. Essentially, all agricultural activities include some source of nonpoint water pollution. Eight characteristic pollution types require special controls: sediment, nutrient, additives, pesticides, herbicides, salt loads, organic loads, and microbial (pathogens).

(1) Commercial agriculture is prohibited. (Ord. 539 § 2, 1994).

16.20.040 Aquaculture.

~~(1) For the purpose of the Normandy Park master program, aquaculture refers to the culture or farming of food fish, shellfish, or other aquatic plants and animals. Forms of aquaculture also include artificial fish stocking, fish rearing activities, and facilities for commercial purposes.~~

~~(2) Commercial aquaculture is prohibited.~~

Aquaculture means the culture, harvesting or farming of food fish, shellfish, or other aquatic plants and animals. Sport fishing is not considered an aquaculture activity. Aquaculture activities include the hatching, cultivating, planting, feeding, raising, harvesting, and processing of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas. Aquaculture also includes restoration activities that support life of fish and shellfish including, but not limited to, restoration of eelgrass beds and forage fish habitat. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.

(1) Policies.

(a) Future commercial aquaculture uses are not anticipated within the City's shoreline jurisdiction due to poor water quality and potential conflicts with navigation, and shall be considered on a case-by-case basis through a Shoreline Conditional Use Permit.

(b). Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact critical saltwater habitats eelgrass and macroalgae, or significantly conflict with existing adjacent uses.

(c) Aquacultural facilities, if permitted within the Normandy Park shoreline, must be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

(d) Aquaculture for the purpose of research or restoration and enhancement of native species are encouraged and shall be considered on a case-by-case basis through a Shoreline Conditional Use Permit.

(e) Non-commercial aquaculture for the purposes of personal consumption may be allowed on a case by case basis and must comply with all applicable elements of the SMP and state and federal regulations, and does not require a permit unless structures are used. When structures are used, a conditional use permit may be required.

(2) Management policies.

(a) Aquatic environment – Commercial aquaculture is allowed with a CUP. Aquaculture for the purposes of personal consumption (subsistence) is allowed when no structures are involved. A conditional use permit shall be required when structures are used for aquaculture for personal consumption.

(b) Urban and Bluff Conservancy environments – Commercial aquaculture is prohibited. Aquaculture for the purposes of research and restoration and enhancement is allowed with a CUP. Aquaculture for the purposes of personal consumption is prohibited.

(c) Rural Residential and Beach Community environments – Commercial aquaculture is prohibited. Aquaculture for the purposes of research and restoration and enhancement is allowed with a conditional use permit. Aquaculture for the purposes of personal consumption is allowed when no structures are used. A conditional use permit shall be required when structures are used for aquaculture for personal consumption.

(3) Regulations.

(a) Aquaculture is not permitted in areas where it would result in a net loss of ecological functions in or damage to critical saltwater habitats (e.g., eelgrass) as defined in NPMC 16.08.125, or significantly conflict with navigation and other water-dependent uses.

(b) No aquatic organism shall be introduced into City of Normandy Park shoreline areas without the prior written approval of the Washington State Department of Fish and Wildlife or the appropriate regulatory agency for the specific organism.

(c) Aquaculture for the purposes of restoration of in support of fish, shellfish, and/or other aquatic animals, and/or aquatic plants may be allowed if a conditional use permit is granted by Normandy

902 Park and written approval has been provided by Washington State Department of Fish and Wildlife
903 or the appropriate regulatory agency for the specific activity.

904 (d) A wastewater plant is operated by the Southwest Sewer District and discharges into the
905 combined mouths of Miller and Walker Creeks. Another wastewater plant is operated by Midway
906 Sewer District and is located in Des Moines, Washington. These plants frequently discharges raw
907 sewage into the creeks and Puget Sound during large storm events or power failures. This discharge
908 is not compatible with aquaculture due to the levels of contaminants discharged into Puget Sound.
909 Any aquaculture that would provide a food source for humans except for the purposes of restoration
910 is prohibited within 0.5 miles of wastewater treatment plant outfall in order to protect the safety of the
911 public from contamination due to the wastewater effluent.

912 (e) The rights of treaty tribes to aquatic resources within their usual and accustomed areas shall be
913 addressed through direct coordination between the project proponent and the Affected Tribes(s).

914 (f) All aquaculture must comply with all state and federal policies, regulations and permits, including
915 Chapter 173-26 WAC, Part III and Chapter 173-27 WAC, and all applicable policies and provisions of
916 this SMP.

917 (g) All aquaculture must comply with the City's noise, litter, and nuisance ordinances.

918 (h) All aquaculture that are allowed within the shoreline must avoid or mitigate impacts and comply
919 with the mitigation sequencing in NPMC 18.36.160 and 18.36.170 and WAC 173-26-201(2)(e).

920 (4) Application requirements and permits administration.

921 (a) Aquaculture permits shall expire 5 years after approval and apply to all subsequent planting,
922 harvesting, restocking and ongoing operations during that time period. Renewals shall expire 10
923 years after approval and shall be administered consistent with WAC 173-27-100.

924 (b). Geoduck application requirements and administration of permits shall be consistent with WAC
925 173-26-241(3)(b)(ii), (iii), and (iv).

926 **16.20.050 Forest practices.**

927 (1) Forest practices are activities relating to the growing, harvesting or processing of timber, including but not
928 limited to:

929 (a) Site preparation for regeneration;

930 (b) Protection from insects, fire and disease;

931 (c) Silvicultural practices such as thinning, release from competing vegetation, and fertilization; and

932 (d) Harvesting, including the engineering and road construction necessary for logging and
933 administrative access.

934 (2) Commercial forest practices are prohibited. (Ord. ~~539 § 2, 1991~~).

935 **16.20.060 Mining.**

936 For the purposes of the Normandy Park master program, mining is the removal of naturally occurring
937 materials from the earth for economic use. Many valuable deposits of sand and gravel are located on the
938 marine shoreline. The conflicts between economic interest and environmental concern in these situations is
939 obvious.

940 (1) Mining is prohibited. (Ord. ~~539 § 2, 1991~~).

941 **16.20.070 Commercial Boating facilities.**

942 Boating facilities include marinas, boat launch ramps, and other commercial boating facilities. Commercial
943 Boating facilities provide launching, storage, moorage, supplies, or service for pleasure boats as well as
944 parking areas for automobiles. They also serve as fueling stops, havens of refuge, and destination points for
945 boaters.

946 (1) Commercial marinas and other commercial boating facilities are prohibited.

947 ~~(2) Noncommercial boat launch ramps shall require a shoreline conditional use permit.~~

948 ~~(3) Construction of Piers or docks for all development (residential and commercial) or usage are~~
949 ~~prohibited. (Ord. 539 § 2, 1991).~~

950 **16.20.080 Commercial development.**

951 Commercial developments are those involved in wholesale, retail, service and business trade.

952 (1) Commercial development is prohibited. (Ord. ~~539 § 2, 1991~~).

953 **16.20.090 Ports and industrial development.**

954 Ports are centers for waterborne traffic and, as such, attract industrial/manufacturing firms.

955 (1) Port facilities and industrial developments are prohibited. (Ord. ~~539 § 2, 1991~~).

956 **16.20.100 Sewage treatment plants.**

957 Sewage treatment plants treat sewage prior to disposal of same.

958 (1) Sewage treatment plants are prohibited in the shoreline. (Ord. ~~539 § 2, 1991~~).

959 **16.20.110 Solid waste disposal.**

960 (1) Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or
961 hazardous waste on any land area or in the water. Solid waste includes all putrescible and nonputrescible
962 solid and semi-solid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes, demolition
963 and construction wastes, abandoned vehicles and parts of vehicles and other discarded commodities. Solid
964 waste does not include composting, sewage, dredge spoil, or common residential gardening practices (see
965 use regulations for landfill, dredging, etc.).

966 (2) Solid waste disposal can be a threat to health and safety wherever it occurs, but it poses particular
967 problems in shoreline areas. Not only is it a physical and visual blight, but leachate from solid waste disposal
968 can contaminate waters, thus endangering public health and wildlife.

969 (a) No solid waste disposal is permitted on the shorelines of Normandy Park. (Ord. 539 § 2, 1994).

970 **16.20.115 Monitoring devices.**

971 (1) "Monitoring devices" means devices used within the aquatic designation or shoreline above the OHWM
972 for restoration, restoration monitoring, water quality monitoring, or improvement of ecological functions.

973 (a) Use of devices for monitoring is subject to a conditional use permit.

974 **16.20.120 Breakwaters.**

975 Breakwaters are off-shore structures often linked to the shore, designed to absorb and reflect the energy of
976 waves so as to protect the shore behind them. They are generally constructed either as solid walls which
977 tend to be most effective in reducing wave energy behind the structure, or as floating structures which often
978 are not sufficient to withstand waves of high energy. Because beach accumulation and general sand mobility
979 is caused by wave, current and tidal action, breakwaters may have dramatic effects on beach formation and
980 sand movement. Solid breakwaters generally have a greater impact on sand movement than floating
981 breakwaters.

982 (1) Breakwaters are prohibited. (Ord. 539 § 2, 1994).

983 **~~16.20.130 Dredging.~~**

984 ~~Dredging is the removal of earth from the bottom of a stream, bay, or other water body for the purposes of~~
985 ~~deepening a navigational channel or to obtain use of the bottom materials for landfill.~~

986 ~~(1) Dredging of bottom materials for the sole purpose of obtaining fill material is prohibited.~~

987 ~~(2) Dredging and excavation in unique and fragile areas is prohibited.~~

988 ~~(3) Dredge disposal is prohibited seaward of the OHWM. (Ord. 539 § 2, 1991).~~

989 **16.20.140 Accretion beach ~~Accretion~~ (beach that accretes sediment).**

990 An accretion beach is a beach that has been created or is growing by a process that involves the accretion
991 or gradual deposition of sand.

992 (1) Development ~~of~~ on accreted beaches is prohibited. (Ord. ~~539 § 2, 1994~~).

993 **16.20.150 Transportation facilities.**

994 Transportation facilities include roads, driveways, and bridges.

995 (1) Transportation facilities are prohibited in the following areas:

996 (a) Steep slopes, eroding bluffs or areas subject to severe erosion or landslide hazard;

997 (b) In front of feeder bluffs, over driftways, or on accretion shoreforms.

998 (c) In the aquatic, bluff conservancy, and urban conservancy environments.

999 (2) Sidecastings of excess road materials are prohibited within the shoreline area of Normandy Park. (Ord.
1000 ~~539 § 2, 1994~~).

1001 **16.20.160 Residential development over water.**

1002 Development of residences over water or within floodways.

1003 (1) Residential development over water, including floating homes, is prohibited in Normandy Park.

1004 (2) Nonresidential development is prohibited within floodways. (Ord. ~~539 § 2, 1994~~).

1005 (3) Any development over water or within floodways is also subject to NPMC Chapter 9.02
1006 Construction in Flood Hazard Areas. In the event of any conflict between the SMP and these
1007 regulations, the regulations with that provide the greatest protection of shorelines shall prevail.

1008 **16.20.170 Jetties.**

1009 Jetties are structures constructed primarily to affect the movement of sand. Jetties are constructed of rock,
1010 steel, or concrete and located at the mouths of streams to prevent sand from blocking channels and
1011 hindering navigation. The effect of jetties is to obstruct the sand contained in the littoral drift. Jetties direct it
1012 away from navigation routes. Where there is a relatively small amount of sand available in the littoral drift,
1013 this type of structure may tend to starve areas down drift.

1014 (1) Jetties are prohibited. (Ord. ~~539 § 2, 1994~~).

1015 **16.20.175 Mooring buoys.**

1016 A recreational mooring buoy is a device used to tie up a boat and typically consists of a line from the boat
1017 attached to a float at the water's surface with a cable or line fixed underwater to the submerged ground. The
1018 anchor line allows the boat to float and swing around the fixed buoy anchor.

1019 (1) Mooring buoys are permitted in the aquatic environment and only if they comply with the Washington
1020 Department of Natural Resources regulations.

1021 (2) Only one mooring buoy per residence is permitted.

1022 **Article III. General Regulations**

1023 **16.20.180 Generally.**

1024 Based upon the shoreline goals and policies in Chapter 16.16 NPMC and this chapter, the following
1025 regulations are established for all shoreline use activities. (Ord. ~~539 § 2, 1994~~).

1026 **16.20.185 General development standards.**

1027 The following general development standards apply to all uses and activities in all shoreline environments:

1028 (1) Impact mitigation.

1029 (a) To the extent Washington State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is
1030 applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be
1031 conducted consistent with the rules implementing SEPA (NPMC 13.12 and WAC 197-11). Mitigation for
1032 adverse impacts to shoreline functions will be riggeded during the SEPA review, shoreline land use permit
1033 process, or exemption approval process.

1034 (b) Where required, mitigation measures shall be applied in the following sequence of steps listed in order
1035 of priority:

1036 (i) Avoid the impact altogether by not taking a certain action or parts of an action;

1037 (ii) Minimize impacts by limiting the degree or magnitude of the action and its implementation by
1038 using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

1039 (iii) Rectify the impact by repairing, rehabilitating, or restoring the affected environment;

1040 (iv) Reduce or eliminate the impact over time by preservation and maintenance operations;

1041 (v) Compensate for the impact by replacing, enhancing, or providing substitute resources or
1042 environments; and

1043 (vi) Monitor the impact and the compensation projects and take appropriate corrective measures.

1044 c) In determining appropriate mitigation measures applicable to shoreline development, lower priority
1045 measures shall be applied only where higher priority measures are determined to be infeasible or
1046 inapplicable.

1047 (d) Required mitigation shall not be in excess of that necessary to assure that proposed uses or
1048 development will result in no net loss of shoreline ecological functions.

1049 (e) Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by
1050 the policy of the Shoreline Management Act.

1051 (f) When compensatory measures are appropriate pursuant to the mitigation priority sequence above,
1052 preferential consideration shall be given to measures that replace the impacted functions directly and are
1053 located in the immediate vicinity of the impact. However, alternative compensatory mitigation may be
1054 authorized if said mitigation occurs within the watershed and addresses limiting factors or identified
1055 critical needs for shoreline conservation based on watershed or comprehensive management plans.
1056 Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or
1057 conditions as necessary to ensure no net loss of ecological functions.

1058 (2) Water quality/stormwater. All activities and development within the shoreline jurisdiction shall incorporate
1059 water pollution control measures and best management practices (BMPs) for stormwater management. Such
1060 measures shall address both temporary impacts to water quality from construction activities as well as the
1061 need for permanent stormwater management facilities in compliance with the requirements and restrictions
1062 of all applicable city and state regulations.

1063 (3) Critical areas. Activities and development in critical areas found within shoreline jurisdiction are required
1064 to comply with the development standards outlined in Chapter 18.36 NPMC – Critical Areas and Chapter
1065 9.02 NPMC – Construction in Flood Hazard Areas.

1066 (a) Any conflict between the standards outlined in Chapter 18.36 NPMC or Chapter 9.02 and the SMP
1067 shall be resolved in favor of the standard that is most protective of the shoreline ecological functions.

1068 (4) Critical salmonid habitats. All saltwater shorelines in Normandy Park are critical salmonid habitats.
1069 Activities and development in critical salmonid habitats found within the shoreline jurisdiction are required to
1070 comply with the following development standards, in addition to those contained in other sections of this
1071 chapter:

1072 (a) Structures which prevent the migration of salmon and steelhead are prohibited. Fish bypass facilities
1073 shall allow the upstream migration of adult fish. Fish bypass facilities shall prevent fry and juveniles
1074 migrating downstream from being trapped or harmed.

1075 (b) Shoreline modification structures may intrude into critical salmonid habitats only where the proponent
1076 demonstrates all of the following conditions are met:

- 1077 (i) An alternative alignment or location is not feasible.
- 1078 (ii) The project is designed to minimize its impacts on the environment.
- 1079 (iii) If the project will create unavoidable adverse impacts, the impacts are mitigated by creating in-
1080 kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible,
1081 rehabilitating degraded habitat may be required as a substitute.
- 1082 (iv) The project satisfies all provisions of NPMC 16.20.200 Shoreline modification activities.
- 1083 (c) Open pile bridges are the preferred water crossing structures over critical salmonid habitats. If a bridge
1084 is not feasible, one of the following water crossing structures may be approved if the impacts can be
1085 mitigated: temporary culverts, bottomless arch culverts, elliptical culverts, or other fish-passable round
1086 culverts. These structures are listed in priority order, with the first having the highest preference and the
1087 last the lowest preference. In order for a lower priority structure to be permitted, the applicant must show
1088 the higher priority structures are not feasible. The project shall be designed to minimize its impacts on the
1089 environment.
- 1090 (d) Dredging in critical salmonid habitats shall not be allowed unless the proponent demonstrates all of
1091 the following conditions are met:
- 1092 (i) The dredging is for a water-dependent or water-related use.
- 1093 (ii) An alternative alignment or location is not feasible.
- 1094 (iii) The project is designed to minimize its impacts on the environment.
- 1095 (iv) The project is in the public interest.
- 1096 (v) The project is for ecological and salmon habitat restoration purposes.
- 1097 (vi) If the project will create significant unavoidable adverse impacts, then the impacts are mitigated
1098 by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not
1099 feasible, rehabilitating degraded habitat may be required as a substitute.
- 1100 (e) In-water dredge spoil disposal sites shall not be located in critical salmonid habitats.
- 1101 (f) Filling, dumping, discharging commercial or industrial waste water (including discharging of
1102 stormwater), dredging, channelization, draining, flooding, disturbing the water level or duration of
1103 inundation or water tables, and other activities which negatively impact habitat are prohibited in wetlands,
1104 ponds, and side channels which are associated with critical salmonid habitats.
- 1105 (g) Within critical salmonid habitats, permanent channel changes and realignments are prohibited, unless
1106 approved by WDFW for restoration purposes.

1107 (h) The removal of aquatic and riparian vegetation within or adjacent to critical salmonid habitats shall be
1108 minimized. Trees which shade side channels, streams, estuaries, ponds, and wetlands associated with
1109 critical salmonid habitats shall be maintained consistent with the provisions of this chapter. Areas of
1110 disturbed earth shall be revegetated.

1111 (i) Unless removal is needed to prevent hazards to life and property or to enhance critical salmonid
1112 habitats, large woody debris below the ordinary high water mark shall be left in the water to provide
1113 salmon and steelhead habitat.

1114 (5) Restoration projects.

1115 (a) Restoration projects within the shoreline environment consistent with WAC 173-27-080(2)(o) shall be
1116 allowed without a shoreline substantial development permit; be reviewed through the shoreline exemption
1117 review process; and be designed consistent with the development standards outlined in Chapter 18.36
1118 NPMC – Critical Areas and Chapter 9.02 NPMC – Construction in Flood Hazard Areas and the provisions
1119 of this chapter.

1120 (b) Approval of restoration projects shall be based on a review of a plan containing, at a minimum, an
1121 analysis of existing conditions, identification of the area to be restored, proposed corrective actions,
1122 including installation of native species, performance standards, monitoring schedule, planting plans,
1123 erosion and sedimentation control plans, and grading plans, as necessary.

1124 (c) The shoreline administrator shall require an applicant to retain the services of a qualified professional
1125 in preparing the restoration plan. Intrusions into regulated steep slopes and associated setbacks will be
1126 allowed for purposes of approved restoration projects.

1127 **16.20.190 Shoreline Protection and Stabilization.**

1128 ~~(1) Shoreline protection is action taken to reduce adverse impacts caused by current, flood, wake, or wave~~
1129 ~~action. This includes all structural and nonstructural means to reduce impacts due to flooding, erosion, and~~
1130 ~~accretion. Specific structural and nonstructural means included in this use activity are riprap, bank~~
1131 ~~stabilization, and other revetments, dikes, levees, flood control dams, berms, and other means of shoreline~~
1132 ~~protection.~~

1133 ~~Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water~~
1134 ~~management, planning and regulatory measures to avoid the need for structural stabilization.~~

1135 ~~(2) Excluded from this section are bulkheads, breakwaters, jetties, and groins which are treated as separate~~
1136 ~~use activities. Recommend including bulkheads under this section.~~

1137 ~~(3) The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the~~
1138 ~~positive aspects of each, so that the benefits of these natural occurrences will be retained, as the problems~~

1139 are addressed. Erosion does not exist without accretion of material eroded, whether it be a beach or a
1140 sandbar. Likewise, accretion cannot occur unless material has been eroded.

1141 (4) Shoreline protection structures shall be permitted within the shoreline area only when the following
1142 regulations and standards are met:

1143 (a) Any shoreline protection structure shall require a shoreline conditional use permit.

1144 (b) Shoreline structures shall be constructed in such a way as to minimize damage to fish and shellfish
1145 habitats. When some benthic community loss is unavoidable, the project shall provide adequate food
1146 fish habitat to mitigate such loss.

1147 (c) All shoreline stabilization and flood protection measures shall be designed and constructed so that
1148 downstream banks will not be adversely affected. Shoreline stabilization measures, including soft
1149 armoring measures (as described in W riprap, shall be designed and constructed in a manner
1150 consistent with guidelines from Washington State Department of Fish and Wildlife and Washington
1151 State Department of Ecology Soil Conservation Service, Department of Fisheries, Corps of Engineers
1152 and/or other engineering and design specifications deemed appropriate by the city engineer, and said
1153 designs shall be reviewed and confirmed by the city engineer as being consistent therewith.

1154 (d) Location, design, and construction of riprapping and other bank stabilization measures or flood
1155 protection measures shall protect adjacent properties from adverse effects and protect the natural
1156 character of the stream or beach.

1157 (e) Shoreline vegetation shall be preserved per the 20.16.195 Vegetation Conservation to the
1158 maximum extent feasible consistent with safe construction practices.

1159 (f) Cut-and-fill slopes and backfill areas shall be revegetated with native grasses, shrubs, and/or trees
1160 in order to provide stabilization.

1161 (g) Whenever shoreline protection is needed, soft shoreline stabilization measures including, but not
1162 limited to, those in WDFW (2104) Marine Shoreline Design Guidelines or Washington State
1163 Department of Ecology (2014) Soft Shoreline Stabilization: Shoreline Master Program Planning and
1164 Implementation Guidance natural berms and vegetation should be favored over artificial means hard
1165 armoring.

1166 (h) The burden of proof for the need for shoreline protection to protect existing or proposed
1167 developments rests on the applicant(s).

1168 (i) Shoreline protection activities which may necessitate new or increased shoreline protection on the
1169 same or other affected properties where there has been no previous need for protection shall be
1170 prohibited.

1171 (j) ~~New development that is not shoreline dependent shall be encouraged to locate so that shoreline~~
1172 ~~protection is not needed.~~

1173 (k) ~~Where shoreline protection measures are required, contiguous property owners shall be~~
1174 ~~encouraged to participate.~~

1175 (l) ~~Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that~~
1176 ~~nonstructural solutions are not practical. Non-structural stabilization measures including relocating~~
1177 ~~structures, increasing buffers, enhancing vegetation, managing drainage and runoff and other~~
1178 ~~measures are preferred over new structural shoreline armoring.~~

1179 (m) ~~Where feasible, any failing, harmful, unnecessary, or ineffective structural shoreline armoring that cannot~~
1180 ~~be repaired or replaced should be removed, and shoreline ecological functions and processes should be~~
1181 ~~restored using non-structural methods.~~

1182 ~~(Ord. 530 § 2, 1991).~~

1183 **16.20.190 Shoreline protection and stabilization.**

1184 (1) Shoreline stabilization. Shoreline stabilization may be permitted in the shoreline as follows: Hard armoring
1185 (e.g. bulkheads and riprap) is subject to a shoreline conditional use permit in the rural residential and beach
1186 community environments. Soft-shore stabilization may be permitted in the rural residential and beach
1187 community environments under a conditional use permit. Shoreline stabilization proposals shall address the
1188 following:

1189 (a) Shoreline stabilization, including bulkheads, shall not be considered an outright permitted use on the
1190 city's shorelines. In order for shoreline stabilization to be permitted, the city must find that:

1191 (i) The applicant shall provide a geotechnical report, prepared by a qualified professional, that
1192 estimates the rate of erosion and evaluates alternative solutions and the urgency associated with the
1193 specific situation;

1194 (ii) Soft-shore stabilization alternatives such as slope drainage systems, vegetative growth
1195 stabilization, gravel berms, and beach nourishment shall be prioritized over structural options such
1196 as bulkheads and riprap; the "softest" effective alternative shall be utilized;

1197 (iii) In the case of proposed hard armoring stabilization solutions (e.g. bulkheads and riprap), erosion
1198 from waves or currents presents a clear and imminent (damage within 3 years) threat to a legally
1199 established primary structure, one or more substantial accessory structures, water-dependent
1200 development, ecological restoration/toxic clean-up remediation projects, or public improvements;

1201 (iv) In the case of bulkheads and riprap, the proposed shoreline stabilization is located landward of
1202 the ordinary high water mark;

- 1203 (v) The proposed shoreline stabilization is the minimum size necessary to protect existing
1204 improvements;
- 1205 (vi) The applicant shall demonstrate that impacts to sediment transport are minimized to the greatest
1206 extent possible;
- 1207 (vii) Shoreline stabilization shall not have an adverse impact on the property of others and shall be
1208 designed so as not to create the need for shoreline stabilization elsewhere;
- 1209 (viii) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface
1210 drainage into the water body and shall be constructed using an approved filter cloth or other suitable
1211 means to allow passage of surface and groundwater without internal erosion of fine material;
- 1212 (ix) Shoreline stabilization shall not be used to create new lands;
- 1213 (x) Use of chemically treated wood is prohibited for any shoreline stabilization proposal within
1214 freshwater stream shorelines;
- 1215 (xi) Use of creosote treated wood is prohibited within marine shorelines; and
- 1216 (xii) Re-vegetation with native plants is required as part of the shoreline stabilization project; and
- 1217 (xiii) Shoreline stabilization shall not otherwise result in a net loss of ecological functions.
- 1218 (xiv) As a condition of any permit for development on a slope or at the base of slope on which soil
1219 movement may potentially occur, the property owner will be required to grant and record a covenant
1220 running with the land releasing the City from liability for damages caused by soil movement, except
1221 for damages caused by the City's sole negligence. The covenant shall also require the owner to
1222 inform his/her successors and assigns that the property is located in a potential slide area, that
1223 successors and assigns are required to comply with any conditions or prohibitions on development
1224 set forth in the permit or in the City's regulations, and that successors and assigns are required to
1225 maintain any feature described in the permit that is necessary to address potential soil movement.
- 1226 (b) When a bulkhead or other structural alternative is permitted subject to subsection (a) above, the
1227 following standards shall apply:
- 1228 (i) The maximum height of the proposed bulkhead or other stabilization structure is no more than
1229 three feet above the elevation of mean higher high water on tidal waters measured from grade on the
1230 waterward side of the bulkhead or structure.
- 1231 (ii) When a bulkhead or other stabilization structure has deteriorated such that the ordinary high
1232 water mark has been established by the presence and action of water landward of the existing
1233 bulkhead, then the replacement bulkhead or structure must be located at or landward of the ordinary
1234 high water mark.

1235 (iii) Repair of an existing bulkhead or other stabilization structure is permitted under a substantial
1236 development permit provided that the repaired bulkhead or structure is not relocated further
1237 waterward or increased in height and is subject to subsection (a) above.

1238 (iv) If an existing bulkhead or other stabilization structure is destroyed it may be replaced as it
1239 existed prior to destruction, provided application for required permits is made within two years of
1240 destruction and the applicant has demonstrated that soft shoreline armoring is not feasible. Additions
1241 to or increases in size of existing shoreline stabilization measures shall be considered new
1242 structures.

1243 (v) Soft shoreline stabilization measures that provide restoration of shoreline ecological functions
1244 may be permitted waterward of the ordinary high water mark and is subject to subsection (a) above.

1245 (vi) The project satisfies the provisions of NPMC 18.36 Critical Areas Development Regulations and
1246 WAC 172-26-231(3)(a)(iii)(C).

1247 (vii) Mitigate new erosion control measures, including replacement structures, on feeder bluffs or
1248 other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to
1249 minimize adverse impacts to sediment conveyance systems per WAC 172-26-231(3)(a)(iii)(C).

1250 (viii) Existing unpermitted bulkheads constructed since 1991 that need repair and replacement must
1251 comply with current Shoreline Master Program regulations and would be considered new bulkheads
1252 for the purposes of this Program.

1253 (c) Creation of new lots shall be prohibited where development and use on new lots would require structural
1254 shoreline stabilization over the life of the development. The following standards shall apply to new
1255 development.

1256 (i) New development that would require shoreline stabilization which causes significant impacts to
1257 adjacent or down-current properties and shoreline areas should not be allowed.

1258 (ii) New development, including newly created parcels, are required to be designed and located to
1259 prevent the need for future shoreline stabilization as documented by a geotechnical analysis.

1260 (iii) New development on steep slopes and bluffs is required to be set back sufficiently to ensure that
1261 shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a
1262 geotechnical analysis and must comply with NPMC 18.36..

1263 **16.20.195 Shoreline vegetation conservation.**

1264 (1) Policies.

1265 (a) Design uses and developments to preserve native shoreline vegetation to maintain shoreline
1266 ecological functions and processes and prevent direct, indirect and/or cumulative impacts of shoreline
1267 development.

1268 (b) Establish native shoreline vegetation through new uses and developments such that the
1269 composition, structure, and density of the plant community resemble a natural, unaltered shoreline as
1270 much as possible.

1271 (c) Limit removal of native vegetation to the minimum necessary to accommodate shoreline
1272 development.

1273 (d) Restrict native vegetation removal within shoreline jurisdiction in order to maintain shoreline
1274 functions, including protection of habitat and shoreline bluffs.

1275 (e) Maintaining well-vegetated shorelines is preferred over clearing vegetation to create views or
1276 provide lawns. Limited and selective clearing for views and lawns may be allowed when slope stability
1277 and ecological functions are not compromised, but landowners should not assume that creating an
1278 unobstructed view of the water will be allowed. Trimming and pruning are generally preferred over
1279 removal of native vegetation.

1280 (f) Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides and
1281 pesticides.

1282 (g) Shoreline landowners are encouraged to preserve and enhance native woody vegetation and
1283 native groundcovers to stabilize soils and provide habitat.

1284 (h) Non-native vegetation that requires use of fertilizers, herbicides, and/or pesticides is discouraged.

1285 (2) Regulations.

1286 (a) Unless otherwise specified, all shoreline use and development, including preferred uses and uses
1287 exempt from permit requirements, shall comply with the buffer provisions of this Program and NPMC
1288 18.36 and NPMC 902 to protect and maintain shoreline vegetation and habitat.

1289 (b) Removal of native vegetation shall be avoided, where feasible. Where removal of native vegetation
1290 cannot be avoided, it shall be minimized to protect ecological functions. If non-native vegetation is to
1291 be removed, then it shall be replaced with native vegetation within the shoreline jurisdiction.

1292 (c) Native plant materials that are equivalent to those which would typically occur with respect to size,
1293 structure, and diversity at maturation shall be used in restoration, rehabilitation, or enhancement
1294 projects.

1295 (d) Proponents of all new shoreline uses or developments shall demonstrate that site designs and
1296 layouts are consistent with the policies of this section to ensure shoreline functions, values, and

1297 processes are maintained and preserved. A shoreline permit or written statement of exemption shall
1298 not mandate, nor guarantee, unobstructed horizontal or lateral visibility of the water, shoreline or any
1299 specific feature near or far.

1300 (e) Trimming of trees and vegetation is allowed within shoreline setback areas without a landscape
1301 plan, provided that:

1302 (i) This provision is not interpreted to allow clearing of vegetation;

1303 (ii) Trimming does not include topping, stripping or imbalances; a minimum of 60 percent of the
1304 original crown shall be retained to maintain tree health;

1305 (iii) Trimming does not directly impact shoreline functions including fish and wildlife habitat;

1306 (iv) Trimming is not within a wetland or wetland buffer or stream buffer; and

1307 (v) Trimming in landslide and erosion hazard areas does not impact soil stability.

1308 (f) The Shoreline Administrator may deny a request or condition approval of vegetation management
1309 or removal proposals for view maintenance if it is determined the action will result in an adverse effect
1310 to any of the following:

1311 (i) Slope stability;

1312 (ii) Habitat value;

1313 (iii) Health of surrounding vegetation;

1314 (iv) Risk of wind damage to surrounding vegetation;

1315 (v) Nearby surface or ground water; or

1316 (vi) Water quality of a nearby water body.

1317 (g) Clearing by hand-held equipment of invasive or non-native shoreline vegetation or plants listed on
1318 the State Noxious Weed List is permitted in shoreline locations if native vegetation is promptly re-
1319 established in the disturbed area.

1320 (h) Aquatic weed control shall only occur to protect native plant communities and associated habitats
1321 or where an existing water-dependent use is restricted by the presence of weeds. Aquatic weed control
1322 shall occur in compliance with all other applicable laws and standards and shall be done by a qualified
1323 professional.

1324 **16.20.200 Shoreline modification activities.**

1325 ~~(1) Piers and docks.~~

1326 ~~(a) A pier or dock is a structure abutting the shoreline built over or floating on the water, used~~
1327 ~~as a landing place for marine transport or for recreational purposes for private, non-~~
1328 ~~commercial pleasure craft. Piers are built on fixed platforms above the water, while docks float~~
1329 ~~upon the water.~~

1330 ~~(b) Docks for private, noncommercial pleasure craft and common to single-family residences,~~
1331 ~~and costing less than \$2,500 are exempt from the requirement for a shoreline substantial~~
1332 ~~development permit. Although these structures are exempt from obtaining a substantial~~
1333 ~~development permit, compliance with the prohibitions, regulations and development standards~~
1334 ~~of this shoreline master program is still required.~~

1335 ~~(b) Piers and docks used for commercial purposes are prohibited.~~

1336 ~~(c) Pier and dock construction requires regulation to protect navigation rights, to preserve~~
1337 ~~shoreline aesthetics, and to maintain the usable water surface and aquatic lands for life forms~~
1338 ~~characteristic and important to those areas.~~

1339 ~~(d) Piers and docks shall be permitted within the shoreline area only if the following regulations~~
1340 ~~and standards are met:~~

1341 ~~(i) Any pier or dock, except as exempted above, shall require a shoreline conditional use~~
1342 ~~permit.~~

1343 ~~(ii) A permit to construct a pier or dock must be obtained from the U.S. Army Corps of~~
1344 ~~Engineers.~~

1345 ~~(iii) Piers, docks, and other moorages shall only be permitted after consideration of:~~

1346 ~~(A) The effect of such structures on wildlife, aquatic life, water quality, scenic and~~
1347 ~~aesthetic values, unique and fragile areas, submerged lands, and shoreline~~
1348 ~~vegetation;~~

1349 ~~(B) The effect of such structures on navigation, water circulation, recreational and~~
1350 ~~commercial boating, sediment movement and littoral drift, and shoreline access.~~

1351 ~~(iv) Open pile pier construction shall be preferred where there is significant littoral drift,~~
1352 ~~where scenic values will not be impaired, and where minimal alteration to the shoreline~~
1353 ~~and minimal damage to aquatic resources can be assured.~~

1354 ~~(v) Floating pier construction shall be preferred in areas where scenic values are high.~~

1355 ~~(vi) Piers or docks that are abandoned or structurally unsafe shall be abated.~~

~~(vii) Where joint-use community piers or docks are provided in accordance with waterfront subdivision approval, single-use piers or docks serving individual lots shall be prohibited.~~

~~(e) Pier and dock dimensions and grating, marine shorelines.~~

~~(i) Where authorized by NPMC, piers and docks located on marine shorelines shall be the minimum size required to provide for moorage. Single-family piers or docks shall not exceed 50 feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 75 feet in length if demonstrated to be necessary to provide adequate moorage. Docks that cannot meet this standard may request a review under the variance provisions of this Program.~~

~~(ii) The maximum width of each pier or dock shall be six feet.~~

~~(iii) The maximum width of walkway ramps shall be four feet and shall be fully grated.~~

~~(iv) The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.~~

~~(f) Pier skirting is not permitted.~~

(g) Commercial floats are prohibited.

(h). Residential floats may be permitted under a conditional use permit. One float is permitted per residence.

(2) Floats – residential.

(a) Floats are structures that are floating and attached by mooring to the surface below water.

(b) One float is allowed per residence.

(c) Floats can not be larger than 120 square feet in size and must be constructed from materials that are based on best available science and least harmful to the environment. Styrofoam floats may not be used.

(d) Floats are subject to a conditional use permit.

(3) Non-commercial launching ramps, rails, and lift stations.

(a) Launching ramps, rails, and lift stations are permitted the rural residential environment subject to a shoreline conditional use permit. The following conditions shall apply:

(i) No portion of a launching ramp, rail, or lift station shall be placed more than 60 feet waterward of the ordinary high water mark.

(ii) All portions of a launching ramp, rail, or lift station shall be placed at a depth not to exceed eight feet below the ordinary high water mark.

(iii) Launching rails or ramps shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps, which solidly cover the bottom or bed of a waterbody, are prohibited.

(iv) No more than one launching ramp, rail, or lift station per shoreline development shall be permitted.

(v) Launching ramps, rails, or lift stations shall not be permitted for shoreline developments that have an existing pier, dock, mooring buoy, or other functional moorage. Piers, docks, or other forms of moorage shall not be permitted for shoreline developments that have existing launching ramps, rails, or lift stations.

(vi) Launching ramps, rails, and lift stations shall be sited and designed to ensure protection of navigation routes and access; they shall be aesthetically compatible with or enhance existing shoreline features, and shall be clearly marked and separated from nearby swimming areas.

~~(2) (4) Bulkheads.~~

~~(a) Bulkheads or seawalls are structures erected parallel to and near the high water mark for the purpose of protecting adjacent uplands from the action of waves or current. Bulkheads are constructed of steel, timber, rock, or concrete and may be either of solid or open-piling construction.~~

~~(b) While bulkheads and seawalls may protect the uplands, they do not protect the adjacent beaches, and in many cases are detrimental to the beaches by speeding up the erosion of the sand in front of the structures.~~

~~(c) WAC 173-27-040, as now exists or as hereafter amended, exempts the Construction or reconstruction of a normal protective bulkhead common to single-family residences from the requires a shoreline substantial development permit. However, these structures are required to comply with all the prohibitions, regulations, and development standards of this shoreline master program and the State of Washington.~~

~~(d) The following regulations and standards apply to the construction of bulkheads and seawalls designed to protect the immediate upland area:~~

~~(i) Bulkheads other than for residential use shall require a shoreline conditional use permit.~~

1416 (ii) Construction of bulkheads shall be permitted only where they provide protection to upland
1417 areas or facilities, not for the indirect purpose of creating land by filling behind the bulkhead.

1418 (iii) Bulkheads and seawalls shall be constructed in such a way so as to minimize damage to fish
1419 and shellfish habitats.

1420 (iv) Bulkheads and seawalls shall be located and constructed in such a manner that will minimize
1421 adverse effects on nearby beaches and alterations of the natural shoreline.

1422 (v) Adequate toe protection shall be provided to ensure bulkhead stability.

1423 (vi) Bulkheads shall be designed to permit the passage of surface or ground water without
1424 causing ponding or saturation.

1425 (vii) Bulkheads shall be sited and designed consistent with appropriate engineering principles.
1426 Professional geologic site studies or design may be are required for any proposed bulkhead for
1427 which a building permit is necessary per the critical areas code XX.XX.XX if the city engineer
1428 determines additional information is necessary. Grounds for such determination shall be
1429 inadequate information on local physical features and/or potential damage to other shoreline
1430 properties and features. The geotechnical analysis should evaluate on-site drainage issues and
1431 address drainage problems away from the shoreline edge before considering structural shoreline
1432 stabilization.

1433 (viii) To receive permit approval for bulkhead construction, the applicant shall agree to grant
1434 adjacent property owners the right to tie in with adjacent bulkheads.

1435 (ix) Bulkheads are to be permitted only where local physical conditions such as foundation
1436 bearing material, surface and sub-surface drainage are suitable for such construction.

1437 (x) Bulkheads are to be located landward of the ordinary high water mark, foreshore of protective
1438 berms (artificial or natural), and generally parallel to the natural shoreline; except:

1439 (A) On marine accretion beaches and along driftways, bulkheads shall be set back a
1440 minimum of 20 feet landward of the OHWM and shall parallel the natural shoreline or per
1441 Critical Areas Code in Section (18.36).

1442 (B) On bluff or bank shorelines where no other bulkheads are adjacent, the construction of
1443 a bulkhead shall be as close to the foot of the natural bank as practical.

1444 (C) Where shoreline protection structures are required, contiguous property owners needing
1445 protection shall be encouraged to participate.

1446 (D) Soft shoreline stabilization measures that provide restoration of shoreline ecological
1447 functions may be permitted waterward of the ordinary high water mark.

1448 ~~(xi) Bulkhead design and development shall conform to all other applicable state agency policies and~~
1449 ~~regulations, including the Washington State Department of Fish and Wildlife, governing bulkhead design.~~

1450 ~~(xii) All new and replacement shoreline structures shall be designed to minimize the transmission of wave~~
1451 ~~energy.~~

1452 ~~(Xiii) All new shoreline development and uses, including the replacement of a destroyed home, shall be~~
1453 ~~located and designed to prevent the need for new or expanded shoreline stabilization measures for the life of~~
1454 ~~the development. Exceptions may be made for the limited instances where shoreline stabilization measures~~
1455 ~~are necessary to protect allowed uses, where no alternative locations are available, and where no net loss of~~
1456 ~~ecological functions will result.~~

1457 ~~(3)~~ (4) Groins.

1458 (a) Groins are barrier-type structures extending from the backshore seaward across the beach. The
1459 basic purpose of a groin is to interrupt the sand movement along the shore.

1460 (b) Trapping of sand by a groin is done at the expense of the adjacent downdrift shore, unless the
1461 groin system is filled with sand to its entrapment capacity.

1462 (c) Construction or reconstruction of groins will be permitted to preserve, protect, or restore an area of
1463 the shoreline where the effects of natural forces indicate a need for corrective action and if unsafe
1464 conditions for property would occur otherwise.

1465 (i) Construction of groins shall require a shoreline conditional use permit.

1466 (ii) ~~The applicant must provide evidence that a groin is necessary for protection of property and~~
1467 ~~that soft armoring will not provide adequate protection.~~

1468 (d) Approval of the permit must consider the effects of the proposed installation on adjacent properties.

1469 (e) Structures waterward of the ordinary high-water mark are allowed only for water-dependent uses,
1470 public access, shoreline stabilization, or other specific public purpose. WAC 173-26-231(3)(d).

1471 (f) Construction of groins must comply with NPMC 16.20.185, 16.20.190, and NPMC 18.36.

1472 ~~(4)~~ (6) Dredging.

1473 (a) ~~Dredging is the removal of earth from the bottom of a stream, bay, or other water body for the~~
1474 ~~purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill.~~

1475 (b) ~~Of all activities on shorelines, dredging poses one of the greatest threats to water quality and~~
1476 ~~aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment~~
1477 ~~in the following ways:~~

1478 (i) Temporary reduction of water clarity from suspended sediments;

1479 (ii) Loss of aquatic plants and animals by direct removal or from the sedimentation of suspended

1480 materials;

1481 (iii) Alteration of the nutrient and oxygen levels of the water column; and

1482 (iv) Suspension of toxic materials from the sediments into the water column.

1483 (c) Dredging shall be permitted within the shoreline area only when the following regulations and

1484 standards are met:

1485 (i) Any dredging shall require a shoreline conditional use permit.

1486 (ii) Dredging of bottom materials for the sole purpose of obtaining fill material is prohibited.

1487 (iii) All dredging activities shall minimize damage to existing ecological and natural resources of

1488 the area to be dredged and the area where dredged materials are to be deposited.

1489 (iv) Dredging and excavation in unique and fragile areas shall be prohibited.

1490 (v) In all cases, dredging and excavation operations should be conducted to minimize adverse

1491 effects on the shoreline environment.

1492 (vi) Dredging operations should be scheduled so as to not materially interfere with the movement

1493 of fish.

1494 (vii) When dredge spoils have suitable organic and physical properties, dredging operators

1495 should be encouraged to recycle dredged material into areas of the city suitable for those

1496 materials.

1497 (viii) Dredge disposal is prohibited seaward of OHWM.

1498 (ix) Dredging of bottom materials shall conform to state and federal policies and regulations

1499 including the State Department of Fisheries.

1500 ~~(5) (7) Landfill Fill.~~

1501 (a) Fill is the placement by man of sediment or other material (excluding solid waste) in an aquatic

1502 area to create new shorelands or on shorelands to raise the elevation of the land. Beach feeding is

1503 included as a landfill use activity.

1504 (b) Landfill Fill (not to be confused with solid waste landfills) has been used within Normandy Park to

1505 create usable land by adding or displacing material in order to remove obstructions for development.

1506 Since the purpose has been to create land usable for specific developments from land not previously

usable for such developments, natural systems were seldom considered. Fill commonly destroys vegetation, subsequently eliminating habitat. It may also cover animal life or breeding and spawning grounds. The following principles and standards are intended to focus on these and other aspects of natural systems affected by landfill, cuts, excavations and site grading actions, while at the same time recognizing human needs.

(c) Landfill Fill shall be permitted within the shoreline area only when the following regulations and standards are met:

(i) Any landfill shall require a shoreline conditional use permit.

(ii) Dredging for fill materials only is prohibited.

(iii) Fill material shall be of such quality that it will not adversely affect water quality.

(iv) Landfill Fill shall be deposited so as to minimize disruption of normal surface and ground water passage.

(v) Landfill Fill shall allow surface water penetration into the groundwater supply, where such conditions existed prior to the fill.

(vi) Landfill Fill shall be accomplished at such time as to minimize damage to water quality and aquatic life.

(vii) Landfill Fill, except for beach feeding, shall be discouraged in areas of high shoreline erosion potential.

(viii) Landfill Fill shall be located landward of the ordinary high water mark and associated wetlands, except for beach feeding. Such landfill shall be allowed only after full consideration is given to factors such as total water surface reduction, impediment to water flow and circulation, reduction of water quality and destruction of habitat. Landfill within the 100-year floodplain shall not reduce the floodplain water storage capacity or in any way increase flood hazard so as to endanger public safety or private property.

(ix) Beach feeding areas on the shorelines may be established and approved by the city with a shoreline permit.

(x) Landfill Fill shall be permitted only for water dependent or public uses.

(5) Dredging and filling.

(a) Dredging.

- 1536 (i) Dredging activities may occur in the Rural Residential, Urban Conservancy, and Beach
1537 Community environments and are subject to a conditional use permit. Dredging is not permitted in
1538 the Bluff Conservancy and Aquatic environments.
- 1539 (ii) Dredging activities are allowed only where necessary to protect public safety or for shoreline
1540 restoration activities.
- 1541 (iii) Dredging is allowed only where an alternative alignment that would not require dredging is not
1542 feasible.
- 1543 (iv) Where allowed, dredging operations must be scheduled so as to not damage shoreline
1544 ecological functions or processes.
- 1545 (v) Where allowed, dredging operations shall avoid and minimize significant ecological impacts to the
1546 greatest extent feasible, and shall be mitigated as required by this chapter.
- 1547 (vi) Siting and design of new development shall avoid the need for new and maintenance dredging.
- 1548 (vii) Dredging for fill materials shall be prohibited, except for projects associated with MTCA or
1549 CERCLA remediation actions, habitat restoration, or any other significant restoration effort approved
1550 by a shoreline conditional use permit. In such instances, placement of dredged fill material must be
1551 waterward of the OHWM.
- 1552 (b) Filling.
- 1553 (i). Fill waterward of the ordinary high water mark associated with non-water dependent uses shall be
1554 prohibited.
- 1555 (ii) Fill waterward of ordinary high water mark needed to support the following water-dependent uses
1556 may be allowed through a conditional use permit in all environments, except it is allowed only for
1557 restoration purposes in the bluff conservancy and urban conservancy environments.
- 1558 (A) Public access;
- 1559 (B) Expansion, alteration, or repair of transportation facilities currently located within the
1560 shoreline;
- 1561 (C) Mitigation actions;
- 1562 (D) Environmental, ecological, or watershed restoration projects;
- 1563 (E) Beach nourishment or enhancement projects;
- 1564 (F) Soft shore bank stabilization projects; and

(G) Disposal of dredged material in accordance with DNR Dredged Material Management Program.

(iii) Permitted fill activities must comply with the following standards:

(A) Demonstration that alternatives to fill are not feasible;

(B) Demonstration that fill shall be deposited so as to minimize disruption of normal surface and ground water passage;

(C) Demonstration that fill materials shall be of such quality that it will not adversely affect water quality;

(D) Demonstration that fill shall allow surface water penetration into the ground water supply, where such conditions existed prior to the fill; and

(E) Demonstration that fill timing will minimize damage to water quality and aquatic life.

(iv) Fill, except for beach nourishment, shall be prohibited in areas of high shoreline erosion potential.

(v) Fill located waterward of the ordinary high water mark that results in a net loss of shoreline function is prohibited.

(6) Signs.

(a) Signs are publicly displayed messages designed to provide information, direction or advertising, and may be pleasing or distracting depending upon their number, design, and location. Uncontrolled use of signs can be detrimental to surrounding property values and may seriously detract from the enjoyment, pleasure, and the natural beauty of the shoreline. Shoreline character and attractiveness should be protected to the greatest extent possible from the ill effects of signs. Any new sign codes for the city should recognize the unique aesthetic character and ecological qualities of shoreline areas.

(b) When permitted by the zoning ordinance, NPMC Title [18](#), signs shall be permitted within the shoreline area only when the following standards are met:

(i) Any sign except those that deal with public access or public safety shall require a shoreline conditional use permit.

(ii) No signs shall be of the flashing or animated type, except those required by law or necessary for the safety of land, water, or air navigation and circulation.

(iii) Signs shall be designed and constructed in a manner that minimizes visual obstruction of the shoreline. Vistas and viewpoints shall be free from unnecessary signs.

1595 (iv) Signs, when permitted, shall be placed so as not to impair views of the shoreline or impair
1596 views upland from the water except where dangerous conditions require warning signs.

1597 (v) Warning signs shall be installed by the city or by other appropriate entities where hazardous
1598 conditions exist on public properties.

1599 (vi) Signs in shoreline areas shall be maintained in a state of security, safety, and repair. (Ord.
1600 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

1601 **16.20.210 Residential element.**

1602 (1) Residential development means one or more buildings or structures or portions thereof designed for and
1603 used for human habitation. Residential development includes one- and two-family detached dwellings,
1604 multifamily residence.20.120s, townhouses, and other similar group housing, together with accessory uses
1605 and structures common to residential uses, including but not limited to garages, sheds, tennis courts,
1606 swimming pools, parking areas, fences, and guest cottages. The only type of residential development
1607 permitted within Normandy Park's shoreline environment is single-family residential use, except for planned
1608 residential developments. Both short subdivisions and formal plats are forms of residential development.

1609 (2) Uses and facilities associated with residential development that are identified as separate use activities in
1610 this shoreline master program, including piers and docks, bulkheads, shoreline protection, utilities, landfill,
1611 and land clearing and grading practices, are subject to the regulations established for those uses in addition
1612 to any special conditions relating to residential areas established in this section.

1613 (3) Pressure to develop shorelines for residential uses has resulted in property subdivision and escalating
1614 waterfront land values. Residential development of shorelines is accomplished in a variety of ways from large
1615 plats and subdivisions for multifamily dwellings to single lot development for recreational housing, any of
1616 which, if poorly planned, can result in the degradation of the shoreline environment and water resources.

1617 (4) Although the Shoreline Management Act specifically exempts "construction on wetlands by an owner,
1618 lessee or contract purchaser of a single-family residence for his(/her) own use or the use of his(/her) family
1619 ..." from shoreline substantial development permit requirements, residential developments must conform to
1620 the policies of the Shoreline Management Act and the policies and use regulations of this shoreline master
1621 program.

1622 (5) Residential development, when permitted by the zoning code, shall be permitted within the shoreline area
1623 only when the following regulations and standards are met:

1624 (a) Residential development in shoreline areas shall comply with all applicable policies and
1625 requirements of the city including those in the comprehensive plan, zoning code, and subdivision
1626 ordinance.

- 1627 (b) Sewage disposal facilities, as well as water supply facilities, shall be provided for all residential
1628 development in accordance with appropriate state and local health regulations.
- 1629 (c) Residential development over water including floating homes is prohibited, except accessory docks
1630 for pleasure craft.
- 1631 (d) Subdivisions should be designed at a level of density, site coverage, and occupancy compatible
1632 with the physical capabilities of the shoreline and site.
- 1633 (e) Site coverage shall include all impermeable surfaces.
- 1634 (f) Minimum building setbacks from the OHWM and sensitive areas (e.g., eroding bluffs or shores,
1635 marshes, bogs, swamps, and streams where setbacks shall be measured from the top of the bluff or
1636 nearest wetland edge) shall be no less than setbacks specified in NPMC 18.36 Critical Areas
1637 Development Regulations. Actual building setbacks shall be determined on a case by case basis. The
1638 following factors shall be taken into account: underlying zoning requirements, height of bluff or bank,
1639 soils and groundwater characteristics and other factors affecting slope stability and environmental
1640 effects on sensitive areas such as streams and wetlands.
- 1641 (g) Boathouses or other buildings or structures for the storage or shelter of boats may be permitted
1642 when set back at least five feet landward of the OHWM and when installed so that no sight-obscuring
1643 portion thereof extends 12 feet above the average grade level.
- 1644 (h) Residential development should protect the natural vegetation of the shoreline area.
- 1645 (i) Residential subdivisions and planned residential developments should be designed to protect water
1646 quality, shoreline aesthetic characteristics, vistas, and normal public use of the water.
- 1647 (j) Residential development plans submitted for approval should contain provisions for protection of
1648 groundwater supplies, erosion control, landscaping, and maintenance of the shoreline integrity.
- 1649 (k) The established velocity, quantity, and quality of stormwater discharge should consider the
1650 sensitivity of the proposed receiving environment. The disposal mode selected should mitigate impacts
1651 to infiltration, runoff, and groundwater recharge.
- 1652 (l) Residential development shall not be located nor designed to require structural shore defense or
1653 flood protection works.
- 1654 (m) Residential development is prohibited within the 100-year floodplain, except when it can be
1655 demonstrated that the reduced storage capacity of the floodplain will not significantly increase the flood
1656 hazard to other properties nor otherwise endanger public safety.
- 1657 (n) Residential development is prohibited within floodways.

(o) Residential development within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions shall be sited and designed consistent with appropriate engineering principles. Professional geotechnical site studies or design may be required by the city engineer.

(p) Accreted beach shall not be developed. (Ord. ~~539 § 2, 1991~~).

16.20.220 Land clearing and grading activities.

(1) Land clearing and grading practices are those methods used for the cutting and/or removal of trees, brush, and other vegetation and for grading activities. The following use regulations are aimed at controlling the activities of land clearing and grading for the protection of forest and fish resources for present and future use and for all the residents of the city, county, and state.

(2) For land clearing and grading practices, the following regulations shall apply:

(a) All land clearing and grading practices in shoreline areas shall be conducted to cause the least possible adverse impacts on the land and water environment, shall respect the natural character of the shoreline, and should make every effort to preserve wildlife, aquatic life, and their habitats.

(b) Minimum land clearing and grading activity setbacks from the OHWM and sensitive areas (e.g., eroding bluffs, or shores, marshes, bogs, swamps, and streams where setbacks shall be measured from the top of the bluff or nearest wetland edge) shall be at least the size specified in NPMC 18.36.

(c) Tree, brush, and vine removal in steep slopes and fragile areas shall be prohibited, except as required for public safety and to protect public or private property. ~~Normal nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations. In addition, non mechanized clearing of invasive nonnative shoreline vegetation is permitted in shoreline areas if native vegetation is promptly reestablished in all disturbed areas.~~

(d) All land clearing and grading shall be accomplished in a manner which minimizes erosion.

(e) All cut, fill, and side cast slopes shall be planted or seeded with appropriate ground cover or otherwise treated to prevent erosion of the slope.

(f) All ruts and erodible soil conditions caused by timber harvesting, brush cutting, or any land clearing and grading operations shall be water-barred or planted with appropriate ground cover.

(g) Whenever seeding, planting, or other soil stabilizing measures are specified, such measures shall be performed as soon as practical.

(h) Land being cleared or graded need not be revegetated if the new use is to be substantially completed within one year of the clearing or grading. However, proper erosion control shall be required.

1690 (i) Replanted vegetation shall be of a similar type and concentration as existing in the general vicinity
1691 of the site or per landscape plan approved by the city engineer. (~~Ord. 539 § 2, 1991~~).

1692 (j) All vegetation removal or modification must also comply with NPMC 16.20.195 shoreline vegetation
1693 conservation.

1694 (k) Vegetation clearing except for the purposes of restoration and enhancement is prohibited in the
1695 urban conservancy and bluff conservancy environments or as permitted under a variance from this
1696 shoreline master program.

1697 **~~16.20.230 Conservation.~~**

1698 ~~This is an element for preservation of the natural shoreline resources, considering such characteristics as~~
1699 ~~scenic vistas, parkways, estuarine areas for fish and wildlife protection, wetlands, beaches, and other~~
1700 ~~valuable natural or aesthetic features.~~

1701 ~~(1) Shoreline structures shall be sited and designed to minimize view obstruction.~~

1702 ~~(2) Where appropriate, the natural flora shall be preserved, restored, and enhanced. (Ord. 539 § 2, 1991).~~

1703 **16.20.240 Public access.**

1704 Public access is the public's ability to get to and use public shoreline. Because of private property ownership
1705 patterns, including privately owned tidelands and steep bluffs, the public has access to the beach only at
1706 Marine View Park in Normandy Park.

1707 (1) Public access to and along the water's edge shall be available within publicly owned shorelines that are
1708 tolerant of human activity where municipal liability is an acceptable risk.

1709 (2) Shoreline access areas shall be planned to include ancillary facilities such as parking and sanitation and
1710 shall be designed and developed to provide adequate protection for adjacent private properties.

1711 (3) Appropriate signs shall be used to delineate publicly owned shoreline areas.

1712 (4) The rights of the individual property owners of shoreline, tidelands, clam beds and uplands shall be
1713 respected and protected.

1714 (5) Public access shall be policed and improved consistent with the intensity of use. (~~Ord. 539 § 2, 1991~~).

1715 **16.20.250 Recreation.**

1716 (1) Recreation is the passive or active refreshment of body and mind through forms of play, amusement, or
1717 relaxation. This section applies to both publicly and privately owned shoreline facilities intended for use by
1718 the public or a private club, group, or association.

1719 (2) Recreational experiences that depend on or use the shoreline include: harvesting of fish, shellfish, fowl,
1720 minerals and driftwood; various forms of boating, swimming and walking; and watching or recording activities
1721 such as photography, painting, or the viewing of water-dependent activities. Principal focal points are parks,
1722 viewpoints, features of special interest, water-access points, and destination points for boaters. Facilities at
1723 these focal points may include ~~fishing piers~~, swimming floats, paths, parking areas, boat ramps, mooring
1724 and marinas, and accessory recreational facilities.

1725 (3) Uses and activities associated with recreational developments which are identified as separate use
1726 activities in this program, such as boating facilities; ~~piers and docks~~; residential development and
1727 commercial development, are subject to the regulations established for those uses in addition to the
1728 standards for recreation established in this section.

1729 (4) Recreational development shall be permitted within the shoreline area only when the following regulations
1730 and standards are met:

1731 (a) To avoid wasteful use of the limited supply of recreational shoreland, parking areas shall be located
1732 a minimum of ~~50-115~~ feet landward from the OHWM and must comply with NPMC 18.36. Access shall
1733 be provided by walkways or other facilities for nonmotorized conveyance.

1734 (b) Recreational developments shall not create significant adverse effects on residential uses of private
1735 property, environmental quality, or natural resources of the shoreline area.

1736 (c) All recreational developments shall be sited to protect neighboring uses.

1737 (d) Structural forms should harmonize with the topography, reinforce use areas, minimize damage to
1738 natural resources, and support recreation with minimal human or resource conflict.

1739 (e) New construction should be sympathetic to the scale, form, and proportion of neighboring
1740 development, to promote harmony in visual relationships and transitions between new and older
1741 buildings.

1742 (f) Whenever possible, natural nonreflective materials (e.g., wood, stone, gravel, etc.) shall be used in
1743 developing shoreline recreational areas.

1744 (g) Valuable shoreline resources and fragile or unique areas such as marshes, estuaries, and
1745 accretion beaches shall be used only for nonintensive and nonstructural recreation activities.

1746 (h) All permanent recreational structures and facilities which are not water-dependent shall be set back
1747 a minimum of ~~50~~ 115 feet landward from the OHWM and shall be located outside the 100-year
1748 floodplain, although the city may grant exceptions for nonintensive accessory uses (e.g., picnic tables,
1749 play areas, etc.), and must also comply with NPMC 18.36 and NPMC 9.02.

1750 (i) Accessory use facilities such as restrooms, recreation halls and gymnasiums, commercial services,
1751 access roads, and parking areas shall be located a minimum of ~~50~~ 115 feet inland from the OHWM,
1752 unless such facilities are water-dependent. These areas shall be linked to the shoreline by walkways.

1753 (j) In approving shoreline recreational developments, the city shall ensure that the development will
1754 maintain, enhance or restore desirable shoreline features, including unique and fragile areas, scenic
1755 views, and aesthetic values. To this end, the city may adjust and/or prescribe project dimensions,
1756 location of project components on the site, intensity of use, screening, parking requirements, and
1757 setbacks, as deemed appropriate to achieve the intent of this shoreline master program.

1758 (k) Proposals for recreational developments shall include a landscape plan, in which native, self-
1759 sustaining vegetation is preferred.

1760 (l) The removal of on-site native vegetation shall be limited to the minimum necessary for the
1761 development of picnic areas, selected views, or other permitted structures or facilities. (~~Ord. 539 § 2,~~
1762 ~~1991~~).

1763 (m) Low impact passive recreation is permitted in the bluff conservancy environment, however, no
1764 structures are permitted for recreational purposes.

1765 **16.20.260 Circulation.**

1766 This is an element for assessing the location and extent of existing and proposed transportation routes, and
1767 other public facilities, and correlating those facilities with shoreline use elements. (~~Ord. 539 § 2, 1991~~).

1768 **16.20.270 Transportation facilities.**

1769 (1) Transportation facilities are those structures and developments that aid in land and water surface
1770 movement of people, goods, and services. They include roads and highways, bridges and causeways,
1771 bikeways, trails, ferry terminals, and other related facilities.

1772 (2) Transportation facility construction shall be permitted within the ~~shoreline area~~ rural residential and beach
1773 community environments only when the following regulations and standards are met:

1774 (a) New surface transportation facilities not related to and necessary for the support of shoreline
1775 dependent activities shall be set back from the ordinary high water mark a minimum of ~~50~~ 115 feet to
1776 make protective measures, such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties
1777 or substantial site regrading unnecessary.

1778 (b) Transportation and utility facilities shall be required to make joint use of rights-of-way and to
1779 consolidate crossing of water bodies in order to mitigate adverse impacts to the shoreline.

1780 (c) No vehicles shall be allowed on Normandy Park beach areas except for residential service access
1781 and by existing prescriptive easement.

(d) Landfills for transportation facility development are not permitted in water bodies or associated wetlands and beaches, except when all structural or upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this program.

(e) Transportation facilities that are allowed to cross over water bodies and associated wetlands shall use elevated, open pile, or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and anticipated high water flows.

(f) All roads shall be set back at least 115 50 feet from the OHWM and water bodies and shall comply with NPMC 18.36 and NPMC 9.02. ~~shall provide buffer areas of compatible, self-sustaining vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.~~

(g) The city shall give preference to mechanical means for roadside brush control rather than the use of herbicides on city roads in shoreline areas. If herbicides are used, they shall be applied so that chemicals do not enter water bodies or stream ways and all permits for their use must be obtained prior to their use. (Ord. ~~539 § 2, 1994~~).

16.20.280 Utilities (primary).

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, sewage, and communications. Utilities in this SMP are divided into primary and accessory based on type and scale. The provisions of this section apply to primary use and activities such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or high voltage transmission facilities, gas distribution lines and storage facilities, stormwater mains and regional stormwater treatment facilities.

(1) Policies.

Policy 1: New primary utilities should be located outside of the SMA unless no other feasible option exists. Where allowed they should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.

Policy 2: Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste facilities" are not to be construed as storage of recyclable materials.

Policy 3: Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.

Policy 4: Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

1815 (2) Regulations.

1816 Regulation 1: Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option
1817 exists.

1818 Regulation 2: Primary utilities shall be located landward of the ordinary high water mark unless such location
1819 is not feasible or would result in potentially greater environmental impacts.

1820 Regulation 3: Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife
1821 spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline
1822 ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this
1823 standard will result in permit denial.

1824 Regulation 4: Utility development shall, through coordination with local government agencies, provide for
1825 compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems
1826 and other forms of recreation and transportation, providing such uses will not unduly interfere with utility
1827 operations, endanger public health and safety or create a significant and disproportionate liability for the
1828 owner.

1829 Regulation 5: Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever
1830 possible, and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for
1831 new corridors or water crossings must fully substantiate the infeasibility of existing routes.

1832 Regulation 6: Solid waste disposal sites and facilities are prohibited in the shoreline environment.

1833 Regulation 7: Where major facilities must be placed in a shoreline area, the location and design shall be
1834 chosen so as not to destroy or obstruct scenic views.

1835 Regulation 8: Primary utility development shall provide screening of facilities from water bodies and adjacent
1836 properties. Screening, including landscaping and fencing, shall be designed to constitute a dense "full
1837 screen."

1838 Regulation 9: Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum,
1839 and upon project completion, any disturbed areas shall be restored to their pre-project condition.

1840 Regulation 10: The City shall hold public meetings prior to the issuance of a Substantial Development Permit
1841 for a major primary utility project in accordance with the administrative procedures outlined in this Master
1842 Program to allow for the greatest amount of public input to help guide utility-related decisions.

1843 Regulation 11: Utilities are prohibited in aquatic and bluff conservancy environments.

1844

1845 **16.20.085 Utilities (accessory).**

1846 (1) Applicability.

1847 Utilities have been split into the categories “accessory” and “primary with accessory,” meaning utilities that
1848 affect small-scale distribution services connected directly to the uses along the shoreline. For example,
1849 power distribution, telephone, cable, water and sewer service lines, stormwater collection and conveyance,
1850 are all considered as utilities accessory to shoreline uses. They are covered in this section because they
1851 concern all types of development and have the potential of impacting the ecological condition and visual
1852 quality of the shoreline and its waters.

1853 (2) Policies.

1854 Policy 1: Utilities are necessary to serve shoreline uses and should be properly installed to protect the
1855 shoreline and water from contamination and degradation.

1856 Policy 2: Utility facilities and rights-of-way should be located outside of the shoreline area to the maximum
1857 extent possible. When utility lines require a shoreline location, they should be placed underground, where
1858 feasible.

1859 Policy 3: Utility facilities should be designed and located in a manner which preserves the natural landscape
1860 and shoreline ecology and minimizes conflicts with present and planned land uses.

1861 (3) Regulations.

1862 Regulation 1: Utility developments shall, through coordination with local government agencies, provide for
1863 compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems,
1864 and other forms of recreation and transportation, providing such uses will not unduly interfere with utility
1865 operations, or endanger public health and safety.

1866 Regulation 2: In shoreline areas, accessory utilities shall be placed underground unless demonstrated to be
1867 infeasible. Further, such lines shall utilize existing rights-of-way, and existing corridors whenever possible.

1868 Regulation 3: Utility facilities shall be located and designed to avoid destruction of, or damage to, important
1869 wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of
1870 shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to
1871 meet this standard will result in permit denial.

1872 Regulation 4: Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon
1873 project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project
1874 conditions, including replanting with native species, or other species as approved by the City, and
1875 maintenance care. If the previous condition is identified as being undesirable for shoreline function, then
1876 landscaping and other improvements shall be undertaken.

1877 Regulation 5: The location and construction of outfalls shall comply with all appropriate federal, state, county
1878 and city regulations.

1879 Regulation 6: The City of Normandy Park shall maintain, enhance and restore public natural drainage
1880 systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental
1881 degradation for a no net loss of shoreline ecological functions.

1882 Regulation 7: New utility lines including electricity, communications, and fuel lines shall be located
1883 underground. Existing above ground lines shall be moved underground when properties are redeveloped or
1884 in conjunction with major system upgrades or replacements.

1885 Regulation 8: Utility development shall include public access to the shoreline, trail systems, and other forms
1886 of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health,
1887 safety, and welfare, or create a significant and disproportionate liability for the owner.

1888 Regulation 9: Proposals for new utility corridors shall fully substantiate the infeasibility of existing routes.

1889 ~~_(1) Utilities are services which produce and carry electric power, gas, sewage, communications, and oil.~~

1890 ~~_(2) Utilities shall be permitted within the shoreline area only when the following regulations and standards are~~
1891 ~~met:~~

1892 ~~_(a) All transmission lines for power, gas, sewage, communications, oil, water, etc., shall be~~
1893 ~~underground except where the presence of bedrock or other obstruction makes such placement~~
1894 ~~infeasible.~~

1895 ~~_(b) Utilities shall be designed and installed in such a way as to minimize damage to the scenic or~~
1896 ~~aesthetic qualities of the shoreline area.~~

1897 ~~_(c) Utility installations shall be set back a minimum of 50-115 feet from the OHWM and water bodies,~~
1898 ~~except where water crossings are required. (Ord. 539 § 2, 1991).~~

1899 **16.20.290 Archaeological resources and historic sites.**

1900 The following regulations shall apply to any structure or area designated or considered an archaeological or
1901 historical site that is located within the shoreline environment:

1902 (1) Any project that would disturb an area designated or considered an archaeological or historical site shall
1903 require a shoreline conditional use permit.

1904 (2) If archaeological resources are discovered during excavation or construction within the shoreline
1905 environment, a work stoppage is required and a shoreline conditional use permit shall be obtained.

1906 (3) The preservation of archaeological resources and historic buildings shall be encouraged within the
1907 shoreline environment. (Ord. 539 § 2, 1991).

1908 **16.20.300 Economic development.**

1909 This element is for the location and design of industries, transportation, port, tourist, commercial facilities,
1910 and other developments dependent on shoreline locations and/or water access.

1911 (1) Economic development is prohibited along the shoreline of Normandy Park. (Ord. ~~539 § 2, 1994~~).

1912 **CHAPTER 16.24 USER'S GUIDE TO PROGRAM ADMINISTRATION**

1913 **16.24.010 Generally.**

1914 No substantial development shall be undertaken on shorelines of the state without first obtaining a
1915 substantial development, variance, or conditional use permit from the city. "Substantial development" means
1916 any development of which the total cost or fair market value exceeds ~~\$5,000~~ \$6,400 or the current dollar
1917 threshold determined by the state, whichever is greater, or any development that materially interferes with
1918 the normal public use of the water or shorelines of the state, except those exempted developments set forth
1919 in WAC 173-27-040, as now exists or as amended hereafter.

1920 Exemption from substantial development permit requirements does not constitute exemption from the
1921 policies and use regulations of the Shoreline Management Act, the provisions of this master program, and
1922 other applicable city, state or federal permit requirements. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

1923 **16.24.020 SMP administration.**

1924 The Shoreline Act requires that local government shall have primary responsibility for initiating and
1925 administering this shoreline master program. This chapter establishes the policies for the application and
1926 enforcement of the provisions of this shoreline master program. (Ord. ~~539 § 2, 1994~~).

1927 **16.24.030 Shoreline administrator.**

1928 (1) The SMP administrator for Normandy Park shall be the city manager or his designee.

1929 (2) The administrator shall receive all applications for substantial development permits, conditional use and
1930 variance permits, and exemptions pertinent to the shoreline area of the city. The administrator has the
1931 authority for and the responsibility to:

1932 (a) Approve or deny statements of exemption, pursuant to the exemptions from substantial
1933 development permits section of this master program.

1934 (b) Review applications for conformity to the rules and regulations of this master program.

1935 (c) Provide the applicant with a checklist of other authority approvals potentially required in addition to
1936 the city's.

1937 (d) Ensure that the required publication/posting/mailing of public notices, described in the user's guide
1938 section of this master program, is accomplished.

1939 (e) Approve, approve with conditions, or deny substantial development permits, including conditional
1940 use and variance permits, and exemptions; provided, that city approval of conditional use and variance
1941 permits must be submitted to the Department of Ecology for approval/disapproval (RCW
1942 90.58.140(10)).

1943 (f) Issue regulatory orders pursuant to the enforcement and penalties section of this master program.
1944 (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

1945 **16.24.040 Exemptions from substantial development permit requirements.**

1946 (1) Application and interpretation of exemptions:

1947 (a) Certain development activities are exempt from the requirement to secure a shoreline substantial
1948 development permit. Exemptions are itemized below. Note, however, that applications for development
1949 permits must include a written statement of exemption as provided for in WAC 173-27-050, as now exists or
1950 as amended hereafter. Interpretations of exemption status shall be narrowly construed. Exemption from
1951 shoreline permits does not exempt activities from other state and federal permits that may be required. Only
1952 those developments that meet the precise terms of one or more of the listed exemptions may be granted
1953 exemption from the substantial development permit process.

1954 (b) An exemption from the substantial development permit process is not an exemption from compliance with
1955 the act or the local master program, nor from any other regulatory requirements. To be authorized, all uses
1956 and developments must be consistent with the policies and provisions of the applicable master program and
1957 the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the local
1958 master program, or is an unlisted use, must obtain a conditional use permit even though the development or
1959 use does not require a substantial development permit. When a development or use is proposed that does
1960 not comply with the bulk, dimensional and performance standards of the master program, such development
1961 or use can only be authorized by approval of a variance.

1962 (c) The burden of proof that a development or use is exempt from the permit process is on the applicant.

1963 (d) If any part of a proposed development is not eligible for exemption, then a substantial development permit
1964 is required for the entire proposed development project.

1965 (e) Local government may attach conditions to the approval of exempted developments and/or uses as
1966 necessary to assure consistency of the project with the act and the local master program.

1967 (2) The following developments shall not require substantial development permits:

1968 ~~(1)-(a)~~ (a) Any development where the total cost or fair market value, whichever is higher, does not
1969 exceed ~~\$5,000~~ \$6,400 or the current dollar threshold determined by the state as described in WAC
1970 173-27-040(2)(a), whichever is greater, and such development does not materially interfere with the
1971 normal public use of the water or shorelines of the state.

~~(2)~~(b) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period of decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

~~(3)~~(c) Construction of a normal protective bulkhead common to single-family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single-family residence and is for protecting land from erosion, not for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed not further waterward of the existing bulkhead than is necessary for construction of new footings (includes those structural and nonstructural developments installed at or landward of, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion). A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near-vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead, then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Washington State Department of Fish and Wildlife.

~~(4)~~ (d) Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time frame too short to allow full compliance with this chapter. Emergency construction does not include development of new, permanent, protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation, either the new structure shall be removed, or any permit which would have been required, absent an emergency pursuant to chapter 90.58 RCW, these regulations, or the local

master program shall be obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur, but are not imminent, are not an emergency.

~~(5) (e) Construction and practices normal and necessary to farming, irrigation, and ranching activities, including agricultural service roads and utilities on wetlands shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feed lot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the wetlands shorelands by leveling or filling other than what results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feed lot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;~~

~~(6) (e)~~ Construction or modification of navigational aids such as channel markers and anchor buoys.

~~(7) (f)~~ Construction on ~~wetlands shorelands~~ by an owner, lessee, or contract purchaser of a single-family residence for ~~his~~ their own use or for the use of ~~his~~ their family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agencies having jurisdiction and the city, other than requirements imposed by this chapter. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are normal appurtenances. An "appurtenance" is necessarily connected to the use and enjoyment of the single-family residence and is located landward of the ordinary high water mark and the perimeter of a marsh, bog, or swamp wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities; fences; installation of a conventional septic tank and drainfield; and grading which does not exceed 250 cubic yards ~~(except to construct a conventional drainfield) and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark~~. Local circumstances may dictate additional interpretation of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

~~(8) (g)~~ Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family and multiple-family residences, ~~for which the cost or fair market value, whichever is higher, does not exceed \$2,500~~ A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if either:

(i) In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars; or

2047 (ii) In fresh waters the fair market value of the dock does not exceed ten thousand dollars,
2048 but if subsequent construction having a fair market value exceeding two thousand five
2049 hundred dollars occurs within five years of completion of the prior construction, the
2050 subsequent construction shall be considered a substantial development for the purpose of
2051 this chapter.

2052 For purposes of this section, "salt water" shall include the tidally influenced marine and estuarine water areas
2053 of the state including the Pacific Ocean, Strait of Juan de Fuca, Strait of Georgia, Puget Sound, and all bays
2054 and inlets associated with any of the above:

2055 ~~(9)~~ (h) Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other
2056 facilities that now exist or are hereafter created or developed as part of an irrigation system for the
2057 primary purpose of making use of system waters, including return flow and artificially stored
2058 groundwater from the irrigation of lands;

2059 ~~(10)~~ (i) The marking of property lines or corners on state-owned lands, when such marking does not
2060 significantly interfere with normal public use of the surface of the water;

2061 ~~(11)~~ (j) Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing
2062 on the effective date of the 1975 Amendatory Act (September 8, 1975) which were created,
2063 developed, or utilized primarily as a part of an agricultural drainage or diking system;

2064 ~~(12)~~ (k) Any project with a certification from the Governor pursuant to Chapter 80.50 RCW;

2065 (l) Site exploration and investigation activities that are prerequisite to preparation of an application for
2066 development authorization under this chapter, if:

2067 (i) The activity does not interfere with the normal public use of the surface waters;

2068 (ii) The activity will have no significant adverse impact on the environment, including but not
2069 limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

2070 (iii) The activity does not involve the installation of any structure, and upon completion of the
2071 activity the vegetation and land configuration of the site are restored to conditions existing
2072 before the activity;

2073 (iv) A private entity seeking development authorization under this section first posts a
2074 performance bond or provides other evidence of financial responsibility to the local
2075 jurisdiction to ensure that the site is restored to preexisting conditions; and

2076 (v) The activity is not subject to the permit requirements of RCW [90.58.550](#).

2077 (n) The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#),
2078 through the use of an herbicide or other treatment methods applicable to weed control that are

2079 recommended by a final environmental impact statement published by the Washington State
2080 Departments of Agriculture or Ecology jointly with other state agencies under chapter 43.21C RCW;

2081 (o) Watershed restoration projects as defined herein. Local government shall review the projects for
2082 consistency with the shoreline master program in an expeditious manner and shall issue its decision
2083 along with any conditions within forty-five days of receiving all materials necessary to review the
2084 request for exemption from the applicant. No fee may be charged for accepting and processing
2085 requests for exemption for watershed restoration projects as used in this section.

2086 (i) "Watershed restoration project" means a public or private project authorized by the
2087 sponsor of a watershed restoration plan that implements the plan or a part of the plan and
2088 consists of one or more of the following activities:

2089 (A) A project that involves less than 10 miles of stream reach, in which less than 25
2090 cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged,
2091 and in which no existing vegetation is removed except as minimally necessary to
2092 facilitate additional plantings;

2093 (B) A project for the restoration of an eroded or unstable stream bank that employs
2094 the principles of bioengineering, including limited use of rock as a stabilization only
2095 at the toe of the bank, and with primary emphasis on using native vegetation to
2096 control the erosive forces of flowing water; or

2097 (C) A project primarily designed to improve fish and wildlife habitat, remove or
2098 reduce impediments to migration of fish, or enhance the fishery resource available
2099 for use by all of the citizens of the state, provided that any structure, other than a
2100 bridge or culvert or instream habitat enhancement structure associated with the
2101 project, is less than 200 square feet in floor area and is located above the ordinary
2102 high water mark of the stream.

2103 (ii) "Watershed restoration plan" means a plan, developed or sponsored by the
2104 Washington State Departments of Fish and Wildlife, Ecology, Natural Resources, or
2105 Transportation; a federally recognized Indian tribe acting within and pursuant to its authority;
2106 a city; a county; or a conservation district; that provides a general program and
2107 implementation measures or actions for the preservation, restoration, re-creation, or
2108 enhancement of the natural resources, character, and ecology of a stream, stream segment,
2109 drainage area, or watershed for which agency and public review has been conducted
2110 pursuant to chapter 43.21C RCW, the State Environmental Policy Act.

2111 (p) A public or private project that is designed to improve fish or wildlife habitat or fish passage, when
2112 all of the following apply:

2113 (i) The project has been approved in writing by the Washington State department of Fish and
2114 Wildlife;

2115 (ii) The project has received hydraulic project approval by the Washington State Department
2116 of Fish and Wildlife pursuant to chapter 77.55 RCW; and

2117 (iii) The city has determined that the project is substantially consistent with the local
2118 shoreline master program. The city shall make such determination in a timely manner and
2119 provide it by letter to the project proponent.

2120 (iv) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are
2121 determined to be consistent with local shoreline master programs, as follows:

2122 (A) In order to receive the permit review and approval process created in this
2123 section, a fish habitat enhancement project must meet the criteria under (p)(iv)(A)(I)
2124 and (II) of this subsection:

2125 (I) A fish habitat enhancement project must be a project to accomplish one
2126 or more of the following tasks:

2127 • Elimination of human-made fish passage barriers, including culvert repair
2128 and replacement;

2129 • Restoration of an eroded or unstable streambank employing the principle
2130 of bioengineering, including limited use of rock as a stabilization only at the
2131 toe of the bank, and with primary emphasis on using native vegetation to
2132 control the erosive forces of flowing water; or

2133 • Placement of woody debris or other instream structures that benefit
2134 naturally reproducing fish stocks.

2135 The Washington State Department of Fish and Wildlife shall develop size or
2136 scale threshold tests to determine if projects accomplishing any of these
2137 tasks should be evaluated under the process created in this section or under
2138 other project review and approval processes. A project proposal shall not be
2139 reviewed under the process created in this section if the department
2140 determines that the scale of the project raises concerns regarding public
2141 health and safety.

2142 (II) A fish habitat enhancement project must be approved in one of the
2143 following ways:

2144 • By the Washington State Department of Fish and Wildlife pursuant to
2145 chapter 77.95 or 77.100 RCW;

2146 • By the sponsor of a watershed restoration plan as provided in chapter
2147 89.08 RCW;

2148 • By the department as a Washington State Department of Fish and Wildlife-
2149 sponsored fish habitat enhancement or restoration project;

2150 • Through the review and approval process for the jobs for the environment
2151 program;

2152 • Through the review and approval process for conservation district-
2153 sponsored projects, where the project complies with design standards
2154 established by the conservation commission through interagency agreement
2155 with the United States Fish and Wildlife Service and the natural resource
2156 conservation service;

2157 • Through a formal grant program established by the legislature or the
2158 Washington State Department of Fish and Wildlife for fish habitat
2159 enhancement or restoration; and

2160 • Through other formal review and approval processes established by the
2161 legislature.

2162 (B) Fish habitat enhancement projects meeting the criteria of (p)(iv)(A) of this
2163 subsection are expected to result in beneficial impacts to the environment. Decisions
2164 pertaining to fish habitat enhancement projects meeting the criteria of (p)(iv)(A) of
2165 this subsection and being reviewed and approved according to the provisions of this
2166 section are not subject to the requirements of RCW 43.21C.030 (2)(c).

2167 (C) A hydraulic project approval permit is required for projects that meet the criteria
2168 of (p)(iv)(A) of this subsection and are being reviewed and approved under this
2169 section. An applicant shall use a joint aquatic resource permit application (JARPA)
2170 form developed by the office of regulatory assistance to apply for approval under this
2171 chapter. On the same day, the applicant shall provide copies of the completed
2172 application form to the Washington State Department of Fish and Wildlife and to
2173 each appropriate local government including the city. Local governments shall
2174 accept the application as notice of the proposed project. The Washington State
2175 Department of Fish and Wildlife shall provide a 15-day comment period during which
2176 it will receive comments regarding environmental impacts. Within 45 days, the
2177 department shall either issue a permit, with or without conditions, deny approval, or
2178 make a determination that the review and approval process created by this section
2179 is not appropriate for the proposed project. The department shall base this
2180 determination on identification during the comment period of adverse impacts that
2181 cannot be mitigated by the conditioning of a permit. If the department determines

2182 that the review and approval process created by this section is not appropriate for
2183 the proposed project, the department shall notify the applicant and the appropriate
2184 local governments of its determination. The applicant may reapply for approval of
2185 the project under other review and approval processes.

2186 (l) Any person aggrieved by the approval, denial, conditioning, or
2187 modification of a permit under this section may formally appeal the decision
2188 to the hydraulic appeals board pursuant to the provisions of this chapter.

2189

2190 Statutory Authority: RCW 90.58.030(3)(e), 90.58.045, 90.58.065, 90.58.140(9), 90.58.143, 90.58.147,
2191 90.58.200, 90.58.355, 90.58.390, 90.58.515, 43.21K.080, 71.09.250, 71.09.342, 77.55.181, 89.08.460,
2192 chapters 70.105D, 80.50 RCW. 07-02-086 (Order 05-12), § 173-27-040, filed 1/2/07, effective 2/2/07.
2193 Statutory Authority: RCW 90.58.140(3) and [90.58].200. 96-20-075 (Order 95-17), § 173-27-040, filed
2194 9/30/96, effective 10/31/96.]

2195 ~~(43)~~ (g) Exceptions shall be construed narrowly;

2196 ~~(44)~~ (r) Exempted developments authorized by local government shall be consistent with the policies and
2197 provisions of the Act and the applicable master program. (Ord. 710 § 1, 2003; Ord. 539 § 2, 1994).

2198 **16.24.050 Statement of exemption.**

2199 Applicants for all other permits or approvals within the shoreline area must obtain a written “statement of
2200 exemption” from securing a substantial development permit. The process provides for verifying that the
2201 action is exempt and offers an applicant an itemization of SMP and other requirements applicable to the
2202 proposed project. In the case of development subject to the policies and regulations of this master program
2203 but exempt from the substantial development permit process, the building official or other permit authorizing
2204 official shall attach shoreline management terms and conditions to the building permits and other permits and
2205 approval pursuant to RCW 90.58.140. For example, the approval of a building permit for a single-family
2206 residence can be conditioned with provisions from the master program. Other permit approvals may be
2207 conditioned on the basis of SMP policy and use regulations as well. (Ord. 539 § 2, 1994).

2208 **16.24.060 Application for substantial development, conditional use or variance permit.**

2209 (1) Completed applications for a substantial development, conditional use, or variance permit shall be
2210 submitted to the shoreline administrator accompanied by the following information and diagrams.

2211 (2) Project Diagrams. All site plans and maps shall be drawn to scale and shall clearly indicate scale on the
2212 lower right-hand corner and be attached to the application.

2213 (a) Site plan, showing the following data:

- 2214 (i) Site boundary;
- 2215 (ii) Property dimensions in vicinity of project;
- 2216 (iii) Ordinary high water mark;
- 2217 (iv) Typical cross-section or sections showing:
- 2218 (A) Existing ground contours,
- 2219 (B) Proposed ground contours,
- 2220 (C) Height of existing structures,
- 2221 (D) Height of proposed structures;
- 2222 (v) Where appropriate, proposed land contours using five-foot intervals, if development involves
- 2223 grading, cutting, filling or other alteration of land contours;
- 2224 (vi) Show dimensions and locations of existing structures which will be maintained;
- 2225 (vii) Show dimensions and locations of proposed structures;
- 2226 (viii) Identify composition and volume of fill material;
- 2227 (ix) Identify sources, composition, and volume of any extracted materials and identify proposed
- 2228 disposal area;
- 2229 (x) Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas and
- 2230 electricity;
- 2231 (xi) If the development proposes septic tanks, compliance with local and state health regulations;
- 2232 (xii) Shoreline designation according to master program;
- 2233 (xiii) Show which areas are shorelines and which are shorelines of statewide significance.
- 2234 (b) Vicinity map.
- 2235 (i) Indicate site location using natural points of reference (roads, state highways, prominent
- 2236 landmarks, etc.).
- 2237 (ii) If the development involves the removal of any soils by dredging or otherwise, please identify
- 2238 the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity

2239 map, provide another vicinity map showing the precise location of the disposal site and its
2240 distance to the nearest city or town.

2241 (iii) Give a brief narrative description of the general nature of the improvements and land use
2242 within 1,000 feet in all directions from the development site.

2243 (iv) of completed environmental checklist, declaration of nonsignificance or environmental impact
2244 statement as is appropriate. Note that if the environmental review has not occurred prior to
2245 application for a shoreline permit, the time period for application review may be extended.

2246 (v) The names, addresses, and legal description for each parcel of property within 300 feet of the
2247 exterior boundary of the subject property as shown by the records of the King County assessor.

2248 (vi) Other information, plans, data and diagrams as required by the shoreline administrator. (Ord.
2249 ~~539 § 2, 1994~~).

2250 **16.24.070 Public notice required – Application.**

2251 (1) Applicants are responsible for providing the following information to the Normandy Park shoreline
2252 administrator:

2253 (a) Type of permit applied for;

2254 (b) Brief description of proposed use;

2255 (c) Address of subject property;

2256 (d) Applicant's name;

2257 (e) Public hearing time and date; and

2258 (f) Invitation to express views on proposal at the public hearing or in writing to the shoreline
2259 administrator one week prior to the public hearing (date to be specified).

2260 (2) The city shall be responsible for the following:

2261 (a) Posting of a 16-square-foot sign on the subject property, presenting the following information:

2262 (i) Notification to the property owners, who are within 300 feet of the exterior boundaries of the
2263 property being developed, by regular mail no less than 20 days prior to permit issuance or a
2264 public hearing on the proposed improvement. The form of such notice shall be provided by the
2265 city and the content shall be approved by the shoreline administrator prior to mailing.

2266 (ii) Public notice publication in the official newspaper of the city no less than once a week on the
2267 same day of the week for two consecutive weeks, with the last publication date not less than 10
2268 days prior to the public hearing date. (Ord. 539 § 2, 1994).

2269 **16.24.080 Permit procedure.**

2270 (1) Application submitted and public notice given in accordance with NPMC [16.24.070](#).

2271 (2) A public hearing shall be held before the shoreline administrator. The shoreline administrator shall
2272 determine the application's compliance with the "Review Criteria for Substantial Development Permits" or as
2273 specified for conditional use or variance permits. Upon a finding of compliance with such criteria, the
2274 shoreline administrator shall issue the permit, issue the permit with conditions, or deny the application.

2275 (3) Within eight days of the final decision of the city, the shoreline administrator shall file the following with
2276 the Washington State Department of Ecology and the Attorney General:

2277 (a) Copies of the original application;

2278 (b) Affidavit of public notice;

2279 (c) Site plan;

2280 (d) Vicinity map;

2281 (e) Permit;

2282 (f) Final order of the city;

2283 (g) All materials required by Chapter 43.21C RCW, the State Environmental Policy Act.

2284 (4) Construction pursuant to a substantial development, conditional use, or variance permit shall not begin
2285 and is not authorized until 30 days from the date of filing with the Department of Ecology or until all review
2286 proceedings (appeals) have been terminated; except as provided in RCW 90.58.140(5)(a), (b), and (c). The
2287 date of filing is the date of actual receipt of materials as provided above. For conditional use and variance
2288 permits, the date of filing is the date DOE's final decision on the conditional use or variance permit is
2289 transmitted to the shoreline administrator.

2290 (5) The time requirements for shoreline permits are as set forth in WAC 173-27-090, as now exists or as
2291 hereafter amended. (Ord. 710 § 1, 2003; Ord. 539 § 2, 1994).

2292 ~~(6) The Muckleshoot Indian Tribe Fisheries Division shall be allowed to comment on shoreline permits and~~
2293 ~~will receive public notice of permit proposals.~~

2294 **16.24.090 Review criteria.**

2295 A substantial development permit, conditional use permit, or variance shall be granted only when the
 2296 development proposed is consistent with the following:

2297 (1) The policies of the Shoreline Management Act (Chapter 90.58 RCW);

2298 (2) Goals, objectives, policies, and use regulations of the Normandy Park shoreline master program;

2299 (3) Chapter 173-27 WAC, as now exists or as amended hereafter, Department of Ecology rules regarding
 2300 permits for developments of shorelines;

2301 (4) Normandy Park comprehensive plan; and

2302 (5) NPMC Title 18, zoning code. (Ord. 710 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2303 **16.24.100 Local appeal – Process.**

2304 (1) Appellant Action. Any person aggrieved by any interpretation, decision or action of the administrator may
 2305 request review of that interpretation, decision or action by the Normandy Park hearing examiner. Such
 2306 requests shall be made in writing to the administrator within 15 days of the interpretation, decision or action.
 2307 The written request shall state clearly the basis for appeal.

2308 (2) Administrator Action. Within seven working days of the administrator's receipt of a request for appeal, the
 2309 administrator shall forward to the hearing examiner the request for review, all pertinent documents and the
 2310 administrator's written analysis of the issues involved in the appeal. The administrator shall also send one
 2311 copy of the analysis to the appellant and one copy to applicant, if different than the appellant.

2312 (3) Shoreline Appeals Board Action. Within 30 days of receipt of the required materials for an appeal, the
 2313 hearing examiner shall take one of the following actions at a public meeting:

2314 (a) Grant the appeal, with or without conditions; or

2315 (b) Deny the appeal, stating the reasons for the denial. (Ord. 833 § 6, 2009; Ord. ~~539 § 2, 1994~~).

2316 **16.24.110 State appeal – Process.**

2317 (1) State Shorelines Hearing Board Action.

2318 (a) All appeals of any final permit decision are governed by the procedures established in RCW
 2319 90.58.180 and Chapter 461-08 WAC, the rules and procedures of the State Shorelines Hearing Board.

2320 (b) All requests for review filed with the Department of Ecology must contain the items required by
 2321 WAC 461-08-055. Such requests shall be filed with the Department of Ecology within 30 days of the
 2322 date of filing in accordance with WAC 173-27-220, as now exists or as amended hereafter. DOE will
 2323 certify the request for review to the Shorelines Hearing Board within 30 days of receipt of the request if

2324 it appears the request has set forth valid reasons to seek review. Failure of DOE to provide such
2325 certification does not preclude the requestor from obtaining certification from the Attorney General or
2326 from obtaining a review in the superior court under any right to review otherwise available. (Ord. 710
2327 § 1, 2003; Ord. ~~539 § 2, 1994~~).

2328 **16.24.120 Revisions to substantial development, conditional use, and variance permits.**

2329 When a revision of a substantial development, conditional use or variance permit is sought, the applicant
2330 shall submit detailed plans and text describing the proposed changes in the permit and demonstrating
2331 compliance with the scope and intent of the original permit pursuant to WAC 173-27-100, as now exists or as
2332 amended hereafter:

2333 (1) If the city determines that the proposed changes are within the scope and intent of the original permit, the
2334 city may approve a revision. "Within the scope and intent of the original permit" means all of the following:

2335 (a) No additional over-water construction will be involved except that pier, dock, or float construction may be
2336 increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;

2337 (b) Ground area coverage and height of each structure may be increased a maximum of 10 percent from the
2338 provisions of the original permit;

2339 (c) Additional separate structures may not exceed a total 250 square feet;

2340 (d) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other
2341 requirements of the applicable master program except as authorized under the original permit;

2342 (e) Additional landscaping is consistent with conditions (if any) attached to the original permit and with the
2343 applicable master program;

2344 (f) The use authorized pursuant to the original permit is not changed; and

2345 (g) No substantial adverse environmental impact will be caused by the project revision.

2346 (2) If the revision or the sum of the revision and any previously approved revisions violate the terms of one or
2347 more of the provisions itemized above, the applicant shall apply for a new shoreline permit in the manner
2348 provided herein.

2349 (3) Within eight days of the date of final city action the revised site plan, text, and the approved revisions
2350 shall be submitted to the Department of Ecology and the Attorney General for their files. A notice of revision
2351 approval shall be forwarded to persons who have notified the shoreline administrator of their desire to
2352 receive a copy of the action on a permit pursuant to WAC 173-27-100, as now exists or as amended
2353 hereafter.

2354 (4) If the revision to the original permit involves a conditional use or variance that was conditioned by the
2355 Department of Ecology, the city shall submit the revision to the Department of Ecology for the Department's
2356 approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the
2357 requirements of WAC 173-27-100(6), as now exists or as amended hereafter. The Department of Ecology
2358 shall render and transmit to the city and the applicant its final decision within 15 days of the date of the
2359 Department's receipt of the submittal from the city. The city shall notify parties of record of the Department's
2360 final decision.

2361 (5) The revised permit shall become effective immediately upon final action by the city or, when appropriate
2362 under WAC 173-27-100(7), as now exists or as amended hereafter, by the Department of Ecology.

2363 (6) Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 21 days from the date of
2364 receipt of the city's action by the Department of Ecology or, when appropriate under WAC 173-27-100(7), as
2365 now exists or as amended hereafter, the date the Department's final decision is transmitted to the city and
2366 the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of WAC
2367 173-27-100(2), as now exists or as amended hereafter. Construction undertaken pursuant to that portion of a
2368 revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the
2369 appeals deadline. If an appeal is successful in proving the revision is not within the scope and intent of the
2370 original permit, the decision shall have no bearing on the original permit. (Ord. 710 § 1, 2003; Ord. ~~539~~ § 2,
2371 ~~1994~~).

2372 **16.24.130 Nonconforming development.**

2373 Nonconforming development is a shoreline use or structure which was lawfully constructed or established
2374 prior to the effective date of the Act or the master program, or amendments thereto, but which does not
2375 conform to present regulations or standards of the master program or policies of the Act. In such cases, the
2376 following standards shall apply:

2377 (1) Nonconforming development may be continued; provided, that it is not enlarged, intensified, increased, or
2378 altered in any way which increases nonconformity;

2379 (2) A nonconforming development which is moved any distance must be brought into conformance with the
2380 master program and the Act;

2381 ~~(3) If a nonconforming development is damaged, it may be reconstructed up to 100 percent of replacement~~
2382 ~~cost to those configurations existing immediately prior to the time the structure was damaged, so long as~~
2383 ~~restoration is completed within one year of the date of damage;~~

2384 ~~(4) Except in the case of seasonal occupancy, which shall be considered less than six months in a calendar~~
2385 ~~year, if a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year~~
2386 ~~period, any subsequent use shall be changed to conforming; it shall be necessary to show that the owner of~~
2387 ~~the property has abandoned such nonconforming use in order for the nonconforming rights to expire;~~

2388 (3) If a nonconforming development is damaged to the extent not exceeding seventy-five percent of the
2389 replacement cost of the original development, it may be reconstructed to those configurations existing
2390 immediately prior to the time the development was damaged, provided that application is made for the
2391 permits necessary to restore the development within six months one year of the date the damage occurred,
2392 all permits are obtained and the restoration is completed within two three years of permit issuance.
2393
2394 (4) If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-three-
2395 year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use
2396 authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of
2397 this section.
2398
2399 (5) A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming
or nonconforming status of the building or structure in which it is housed; and
2400
2401 (6) An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the
2402 Act and the master program but which does not conform to the present lot size or density standards may be
2403 developed as long as such development conforms to other requirements of the master program and the Act.
(Ord. 539 § 2, 1994).
2404
2405 (7) Structures that were legally established and are used for a conforming use but which are nonconforming
2406 with regard to setbacks, buffers, or yards; area; bulk; height; or density may be maintained and repaired and
2407 may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity
2408 by further encroaching upon or extending into areas where construction or use would not be allowed for new
development or uses.
2409
2410 (8) A use which is listed as a conditional use but which existed prior to adoption of the master program or
2411 any relevant amendment and for which a conditional use permit has not been obtained shall be considered a
2412 nonconforming use. A use which is listed as a conditional use but which existed prior to the applicability of
2413 the master program to the site and for which a conditional use permit has not been obtained shall be
considered a nonconforming use.
2414
2415 (9) A structure for which a variance has been issued shall be considered a legal nonconforming structure and
the requirements of this section shall apply as they apply to preexisting nonconformities.
2416
2417 (10) A nonconforming structure which is moved any distance must be brought into conformance with the
applicable master program and the act.

2418 **16.24.140 Enforcement and penalties.**

2419 **(1) For the purposes of improving enforcement of this SMP program, the shoreline administrator**
2420 **shall monitor activities along the Normandy Park shoreline through as follows:**

2421 (a) Conduct a boat survey of the Normandy Park shoreline zone every six months to assess
2422 violations of this shoreline program. Provide an annual report of the results of these surveys
2423 to the City Council.

2424 (b) Assess whether the City is achieving no net loss of shoreline ecological functions on an
2425 annual basis and cumulatively from the issue date (XX, 2014) of this shoreline program. The
2426 report shall include an analysis of impacts from development (and where possible including
2427 unpermitted actions) and how this is balanced by restoration actions within Normandy Park
2428 to achieve no net loss of ecological functions. This shall be reported annually to the City
2429 Council.

2430 (2) The choice of enforcement action and the severity of any penalty should be based on the nature of the
2431 violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of
2432 the persons subject to the enforcement action, the benefits that accrue to the violator, and the cost of
2433 obtaining compliance may also be considered.

(a) The following section of the RCW 90.58.210 Court actions to ensure against conflicting uses
and to enforce — Civil penalty — Review is incorporated in this code section and will be enforced
by the City.

2434 (i) Except as provided in RCW 43.05.060 through 43.05.080 and 43.05.150, the attorney
2435 general or the attorney for the local government shall bring such injunctive, declaratory, or
2436 other actions as are necessary to ensure that no uses are made of the shorelines of the
2437 state in conflict with the provisions and programs of this chapter, and to otherwise enforce
2438 the provisions of this chapter.

2439 (ii) Any person who shall fail to conform to the terms of a permit issued under this chapter or
2440 who shall undertake development on the shorelines of the state without first obtaining any
2441 permit required under this chapter shall also be subject to a civil penalty not to exceed one
2442 thousand dollars for each violation. Each permit violation or each day of continued
2443 development without a required permit shall constitute a separate violation.

2444 (iii) The penalty provided for in this section shall be imposed by a notice in writing, either by
2445 certified mail with return receipt requested or by personal service, to the person incurring the
2446 same from the department or local government, describing the violation with reasonable
2447 particularity and ordering the act or acts constituting the violation or violations to cease and
2448 desist or, in appropriate cases, requiring necessary corrective action to be taken within a
2449 specific and reasonable time.

(iv) The person incurring the penalty may appeal within thirty days from the date of receipt of the penalty. The term “date of receipt” has the same meaning as provided in RCW 43.21B.001. Any penalty imposed pursuant to this section by the department shall be subject to review by the shorelines hearings board. Any penalty imposed pursuant to this section by local government shall be subject to review by the local government legislative authority. Any penalty jointly imposed by the department and local government shall be appealed to the shorelines hearings board.

(3) The following section of the RCW 90.58.220 General penalty is adopted in this code and enforced by the City.

(a) In addition to incurring civil liability under RCW 90.58.210, any person found to have wilfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the master programs, rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars: PROVIDED FURTHER, That fines for violations of RCW 90.58.550, or any rule adopted thereunder, shall be determined under RCW 90.58.560.

(4) The following section of the RCW 90.58.230 Violators liable for damages resulting from violation — Attorney’s fees and costs is adopted in the code and enforced by the City.

(a) Any person subject to the regulatory program of this chapter who violates any provision of this chapter or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The attorney general or local government attorney shall bring suit for damages under this section on behalf of the state or local governments. Private persons shall have the right to bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney’s fees and costs of the suit to the prevailing party.

(1) Civil Penalty.

(a) The attorney for the city shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state in conflict with the provisions of the Act and the master program and to otherwise enforce the provisions of the Act and the master program.

2481 (b) Any person who fails to conform to the terms of a permit issued under the master program or who
2482 undertakes a development or use on the shorelines of the state without first obtaining any permit required
2483 under the master program or who fails to comply with a cease and desist order issued under regulations
2484 shall also be subject to a civil penalty not to exceed \$1,000 ~~\$100,000~~ for each violation. Each permit violation
2485 or each day of continued development without a required permit shall constitute a separate violation.

2486 (c) Any person who, through an act of commission or omission procures, aids, or abets in the violation shall
2487 be considered to have committed a violation for the purposes of the civil penalty.

2488 (d) The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with
2489 return receipt requested or by personal service, to the person incurring the same from the city. The notice
2490 shall include the "content of order" specified in subsection (1)(f) of this section.

2491 (e) Within 30 days after the notice is received, the person incurring the penalty may apply in writing to the city
2492 for remission or mitigation of such penalty. Upon receipt of the application, the city may remit or mitigate the
2493 penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or
2494 factors not considered in setting the original penalty. Any penalty imposed pursuant to this section by the city
2495 shall be subject to review by the Normandy Park city council. In accordance with RCW 90.58.050 and
2496 90.58.210(4), any penalty jointly imposed by the city and the Department of Ecology shall be appealed to the
2497 shoreline hearings board. When a penalty is imposed jointly by the city and the Department of Ecology, it
2498 may be remitted or mitigated only upon such terms as both the city and the Department of Ecology agree.

2499 (f) Regulatory Order.

2500 (i) Content of order shall set forth and contain:

2501 (A) A description of the specific nature, location, extent, and time of violation and the damage or potential
2502 damage; and

2503 (B) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific
2504 corrective action to be taken within a given time. A civil penalty under this section may be issued with the
2505 order and same shall specify a date certain or schedule by which payment will be complete.

2506 (ii) The cease and desist order issued under this subsection shall become effective immediately upon receipt
2507 by the person to whom the order is directed.

2508 (iii) Failure to comply with the terms of a cease and desist order can result in enforcement actions including,
2509 but not limited to, the issuance of a civil penalty.

2510 (2) Delinquent Permit Penalty. Permittee applying for a permit after commencement of a use or activity may,
2511 at the discretion of the city be required, in addition, to pay a delinquent permit penalty not to exceed three
2512 times the appropriate permit fee paid by the permittee. A person who has caused, aided, or abetted a
2513 violation within two years after the issuance of a regulatory order, notice of violation, or penalty by the city or

2514 the Department of Ecology against said person may be subject to a delinquent permit penalty not to exceed
2515 40 times the appropriate permit fee paid by the permittee. Delinquent permit penalties shall be paid in full
2516 prior to resuming the use or activity.

2517 ~~(3) Property Lien. Any person who fails to pay the prescribed penalty as authorized in this section shall be~~
2518 ~~subject to a lien upon the affected property until such time as the penalty is paid in full. The attorney for the~~
2519 ~~city shall file said lien against the affected property at the office of the King County assessor.~~

2520 ~~(4) Mandatory Civil Penalties. Issuance of civil penalties is mandatory in the following instances:~~

2521 ~~(a) The violator has ignored the issuance of an order or notice of violation.~~

2522 ~~(b) The violation causes or contributes to significant environmental damage to shorelines of the state as~~
2523 ~~determined by the city.~~

2524 ~~(c) A person causes, aids, or abets in a violation within two years after issuance of a similar regulatory order,~~
2525 ~~notice of violation, or penalty by the city or the Department of Ecology against said person.~~

2526 ~~(5) Minimum Penalty Levels.~~

2527 ~~(a) Regarding all violations that are mandatory penalties, the minimum penalty is \$250.00. \$250,000~~

2528 ~~(b) For all other penalties, the minimum penalty is \$100.00. \$100,000.~~

2529 ~~(6) General Criminal Penalty. In addition to incurring civil liability under subsection (1) of this section, any~~
2530 ~~person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions~~
2531 ~~of the Act or the master program shall be guilty of a gross misdemeanor and shall be punished by a fine of~~
2532 ~~not less than \$100.00. \$100,000. nor more than \$1,000. \$250,000 or by imprisonment in the county jail for not~~
2533 ~~more than 90 days for each separate offense, or by both such fine and imprisonment; provided, that the fine~~
2534 ~~for each separate offense for the third and all subsequent violations in any five-year period shall be not less~~
2535 ~~than \$500.00 nor more than \$10,000.~~

2536 ~~(7) Violator's Liability—Damages—Attorney's Fees—Costs. Any person subject to the regulatory program of~~
2537 ~~the Act or the master program who violates any provision thereof or permit issued pursuant thereto shall be~~
2538 ~~liable for all damage to public or private property arising from such violation, including the cost of restoring~~
2539 ~~the affected area to its condition prior to violation. The attorney for the city shall bring suit for damages under~~
2540 ~~this section on behalf of the city. Private persons shall have the right to bring suit for damages under this~~
2541 ~~section on their own behalf and on the behalf of all persons similarly situated. If liability has been established~~
2542 ~~for the cost of restoring an area affected by a violation, the court shall make provisions to assure that~~
2543 ~~restoration will be accomplished within reasonable time at the expense of the violator. In addition to such~~
2544 ~~relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to~~
2545 ~~the prevailing party.~~

2546 (8) Development and Building Permits. No building permit, septic tank permit, or other development permit
2547 shall be issued for any parcel of land developed or divided in violation of the master program. All purchasers
2548 or transferees of property shall comply with provisions of the Act and the master program, and each
2549 purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling,
2550 transferring, or leasing land in violation of the Act or the master program, including any amount reasonably
2551 spent as a result of inability to obtain any development permit and spent to conform to the requirements of
2552 the Act or the master program as well as cost of investigation, suit, and reasonable attorney's fees
2553 occasioned thereby. Such purchaser, transferee, or lessor may, as an alternative to conforming his property
2554 to these requirements, rescind the sale, transfer, or lease and recover cost of investigation and reasonable
2555 attorney's fees occasioned thereby from the violator. (Ord. 539 § 2, 1991).

2556 **16.24.150 Additional authority.**

2557 In addition to any other powers granted hereunder, the city may:

2558 (1) Acquire lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in
2559 concert with other governmental entities, when necessary to achieve implementation of the master program;

2560 (2) Accept grants, contributions, and appropriations for any agency, public or private, or individual for the
2561 purposes of the Act and the master program;

2562 (3) Appoint advisory committees to assist in carrying out the purposes of the Act and the master program;
2563 and

2564 (4) Contract for professional or technical services required by the city which cannot be performed by city
2565 employees. (Ord. 539 § 2, 1991).